

1                   UNITED STATES DISTRICT COURT  
2                   SOUTHERN DISTRICT OF OHIO  
3                   WESTERN DIVISION

4                   - - -

5                   UNITED STATES OF AMERICA, : **CASE NO. 1:20-CR-0077**  
6                   Plaintiff, :  
7                   vs. : **JURY TRIAL, DAY 15**  
8                   LARRY HOUSEHOLDER, et al. :  
9                   Defendant. : **21st of February, 2023**

10                   - - -

11                   **TRANSCRIPT OF PROCEEDINGS**  
12                   **BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE**

13                   - - -

14                   APPEARANCES:

15                   For the Plaintiff:

16                   Emily N. Glatfelter, Esq.  
17                   Matthew Charles Singer, Esq.  
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1 For the Defendant, Matthew Borges:

Karl Herbert Schneider, Esq.  
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5           Also present:           Larry Householder  
6                                   Matthew Borges  
7                                   Blane Wetzel, FBI Spec  
                                 Kelly Terry, paralegal  
                                 PJ Jensen, trial tech

8 Law Clerk: Cristina V. Frankian, Esq.

9      Courtroom Deputy:    Rebecca Santoro

10 Stenographer: Lisa Conley Yungblut, RDR, RMR, CRR, CRC  
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11 100 East Fifth Street  
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## Proceedings recorded in stenotype.

Transcript produced with computer-aided transcription.

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PROCEEDINGS

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(Proceedings held in open court at 9:29 a.m.)

3

THE DEPUTY: All rise. This United States District Court for the Southern District of Ohio is now in session, The Honorable Timothy S. Black, District Judge, presiding.

6

THE COURT: Thank you. Please be seated. Good morning and welcome back. It's 9:30, appears that all principals and counsel are here.

9

Are we ready for the jury from the government's perspective?

11

MS. GLATFELTER: Yes, Your Honor. Thank you.

12

THE COURT: And from Mr. Householder's perspective?

13

MR. OLESKI: Yes, Judge.

14

THE COURT: And from Mr. Borges' perspective?

15

MR. SCHNEIDER: Yes.

16

THE COURT: Who's on the stand and in what phase?

17

MS. GLATFELTER: Chris Hartsel is on the stand currently on direct examination.

19

THE COURT: Very well. Let's call for the jury.

20

THE DEPUTY: All rise for the jury.

21

(Jury entered the courtroom at 9:30 a.m.)

22

THE COURT: Jurors can be seated as they join us. You may all be seated. Thank you. To the 14 Members of the Jury who have arrived timely, good morning and welcome back. I've missed you. We have a full week and we are ready to

1 go. We will continue hearing testimony, if the government  
2 will recall its witness.

3 If the gentleman would be willing to approach and come  
4 to the stand.

5 (Witness re-took the stand.)

6 THE COURT: You can approach the podium, Ms.

7 Glatfelter.

8 MS. GLATFELTER: Thank you, Your Honor.

9 THE COURT: Good morning.

10 THE WITNESS: Good morning.

11 THE COURT: You remain under oath and you  
12 understand?

13 THE WITNESS: Yes, sir.

14 THE COURT: Very well. Government will continue  
15 examination. You may commence when you're ready, Ms.  
16 Glatfelter.

17 MS. GLATFELTER: Thank you, Your Honor.

18 Good morning, Mr. Hartsel.

19 THE WITNESS: Good morning.

20 **DIRECT EXAMINATION (Continued.)**

21 **BY MS. GLATFELTER:**

22 **Q** When we left off on Thursday, we were discussing the  
23 17 Consulting Group account; do you recall that?

24 **A** Yes.

25 MS. GLATFELTER: And, Your Honor, if we may

1 continue publishing what has been admitted as Exhibit 135?

2 THE COURT: Yes.

3 Q Okay. Mr. Hartsel, you were describing to us how you  
4 had created this chart, and can you go ahead and describe  
5 that again for the jury so we can pick up where we left off?

6 A Sure. So on the left, you'll find a table that shows  
7 a summary of the spending from 17 Consulting. At the top,  
8 you'll see the greatest beneficiary of the account or payee  
9 all the way down to the lowest. And on the right, you'll  
10 see a corresponding pie graph that shows the percentages  
11 that corresponds to each one of the payees in the table to  
12 the left.

13 Q Okay. And who were the top payees from the 17  
14 Consulting Group account?

15 A The top payees would have been Juan Cespedes, Matthew  
16 Borges, CGI Investigations, Hancock and Prouty, Protect Ohio  
17 Clean Energy Jobs, Denzenhall Resources.

18 Q Okay. And if we can move to page 2 of this exhibit,  
19 and can you describe to us what this graph is depicting?

20 A So this is what we described as a flow chart. It  
21 shows the flow of funds. Moving from on the left, you'll  
22 see FirstEnergy Service Company to Generation Now and then  
23 flowing to 17 Consulting Group, LLC, and then to payees that  
24 we regarded in the investigative team as significant.

25 Q Okay. And so all of the payees from the 17 Consulting

1       Group account are not listed on this chart, right, just  
2       select ones?

3       **A**       That's correct.

4       **Q**       Okay. And why did you choose to name things, for  
5       example, on the top of the chart like FirstEnergy Service  
6       Company?

7       **A**       Because this shows the source of the funds that  
8       eventually made it to each one of the payees listed from 17  
9       Consulting.

10      **Q**       And the FirstEnergy Service account or Service Company  
11       account, is that where the money that flowed into Generation  
12       Now at that time came from?

13      **A**       That's correct.

14      **Q**       Now, in the course of your work on this case, Mr.  
15       Hartsel, were you involved in analyzing bank records for an  
16       entity called JPL Associates, LLC?

17      **A**       Yes.

18      **Q**       And who is the signatory on the JPL Associates  
19       account?

20      **A**       It's Jeff Longstreth.

21      **Q**       Okay. And did you also analyze bank records for a  
22       company called Constant Content company?

23      **A**       Yes.

24      **Q**       And who was the signatory on accounts associated with  
25       Constant Content?

1       **A**     It's also Jeff Longstreth.

2       **Q**     And were bank records obtained for those two  
3              companies?

4       **A**     Yes.

5       **Q**     And did you schedule those accounts in the manner  
6              you've previously described for the jury?

7       **A**     Yes.

8       **Q**     And in doing so, did you summarize the deposits or in  
9              flows into the JPL and Constant Content accounts?

10      **A**     Yes.

11              MS. GLATFELTER: Your Honor, permission to show the  
12              witness what has been marked as Exhibit 34?

13              THE COURT: Yes.

14      **Q**     Mr. Hartsel, can you briefly describe what's depicted  
15              in Exhibit 34?

16      **A**     So this is a chart similar to what we saw before;  
17              however, it includes three different accounts, two for  
18              Constant Content and one for JPL & Associates. The chart  
19              shows the inflows or the deposits listed from the largest  
20              payor, benefactor, all the way down to the lowest.

21      **Q**     Okay. And did you create this chart?

22      **A**     Yes.

23      **Q**     And did you create it in the same manner as the others  
24              that you've described for the jury during your testimony?

25      **A**     Yes.

1 MS. GLATFELTER: Your Honor, permission to admit  
2 Exhibit 34 and publish it for the jury?

3 THE COURT: Any objections?

4 MR. GLICKMAN: No objection.

5 MR. SCHNEIDER: No.

6 THE COURT: Very well. It's admitted. You may  
7 publish.

8 **Q** Okay. Mr. Hartsel, in a moment the jury will be able  
9 to see the exhibit too. Okay. And if we can go through  
10 each column of the -- each column of the chart and describe  
11 what's depicted in that column.

12 **A** Sure. So as I mentioned, the chart is organized  
13 similar to what you saw in previous charts with the greatest  
14 payor or benefactor to the least. On the left, those are  
15 the entities, and then there are three columns listed,  
16 starting from left to right, Constant Content account ending  
17 in 4045, Constant Content account ending in 1219, and then  
18 JPL & Associates ending in 9192, and the last column is a  
19 total column that sums all three accounts for each one of  
20 the entities listed on the left.

21 **Q** Okay. And so in the farthest right to the right of  
22 the table, we see some percentages, can you describe what  
23 those are for us, please?

24 **A** So those percentages represent the total percentage of  
25 all of the deposits coming into the account.

1       **Q**       Okay. And so if we take the first line, for example,  
2                  can we go through that to show the jury how this works?

3       **A**       Sure. So in the first line, the largest payee into  
4                  the JPL and Constant Content accounts is Generation Now,  
5                  Incorporated. There is approximately \$10.8 million that  
6                  comes in for the period reviewed in the account of 9192.

7       **Q**       Okay. And what percentage of the total deposits into  
8                  these three accounts does the Generation Now, Inc. deposits  
9                  comprise?

10      **A**       61 percent.

11      **Q**       Okay. And what's the second line?

12      **A**       The second line is the second-largest payor into the  
13                 account, that's Ohioans For Energy Security; \$2.2 million  
14                 comes into the account ending in 4025, and \$2.2 million  
15                 comes into the account ending in 2129.

16      **Q**       And we looked at the Ohioans For Energy Security  
17                 account on Thursday; do we remember that?

18      **A**       Yes.

19      **Q**       How is the Ohioans For Energy Security account funded?

20      **A**       That's funded by Generation Now.

21      **Q**       So 86 percent of the JPL and Constant Content accounts  
22                 were funded by deposits from Generation Now in one form or  
23                 the other?

24      **A**       That's correct.

25      **Q**       Okay. Below that, you see a bunch of other

1       depositors -- I guess there's probably a better word for  
2       that -- but people who are depositing money into the  
3       account; do you see those listed?

4       **A**      Yes.

5       **Q**      What are the percentages of those people over time?

6       **A**      All except for Ohio AFL-CIO, it's either 1 percent or  
7       less than 1 percent.

8       **Q**      And so money from other sources is coming into the  
9       account at that time?

10      **A**      Yes.

11      **Q**      But it accounts for what percentage of the account  
12      totals?

13      **A**      For the 1 percent and the 0 percent, approximately,  
14      12 percent of the total inflows.

15      **Q**      Okay. And then at the bottom of the chart, you have a  
16      column -- or you have a row that says "Totals." Can you  
17      tell us what that is?

18      **A**      So at the bottom, there are totals for each one of the  
19      accounts for the period reviewed followed by percentages,  
20      once again, of the total inflows for all three entities.

21      **Q**      Okay. And so that's the percentage of money into --

22      **A**      Each one of the accounts.

23      **Q**      I see. Okay. And what time frame does this chart  
24      cover?

25      **A**      2019 and 2020, I believe.

1       **Q**     Okay. Could it be 2017 to 2020?

2       **A**     Oh, yes. I'm sorry. Yes.

3       **Q**     We'll look at another one that's from a different time  
4       frame later.

5       **A**     Thank you.

6       **Q**     Was there another JPL account that you examined  
7       records for that is not listed on this chart?

8       **A**     Yes.

9       **Q**     Okay. And can you explain that to us?

10      **A**     So the other JPL account, it didn't have much activity  
11       in it at all except for maybe some transfers between the  
12       9192 and the other JPL account, so, therefore, it's not  
13       included on this graph.

14      **Q**     Because it didn't have any independent deposits?

15      **A**     Correct.

16                  MS. GLATFELTER: Okay. One moment.

17                  Okay. If we can look at page 2, Ms. Terry, of this  
18       exhibit.

19      **Q**     All right. Mr. Hartsel, can you describe the chart  
20       that you've created on page 2?

21      **A**     So this is a bar chart that shows at a large picture  
22       what the percentage of funding is for each one of the  
23       accounts. So once again, from left to right, we have the  
24       two Constant Content accounts, the JPL account, and then all  
25       three accounts combined.

1       **Q**       Okay. So let's go through those. For the Constant  
2       Content account -- and, again, this is for the period of  
3       2017 through 2020?

4       **A**       Yes.

5       **Q**       Okay. And for the Constant Content account ending in  
6       4045, what percentage -- what was the largest contributor to  
7       that account?

8       **A**       It was Ohioans For Energy Security.

9       **Q**       And is that what is depicted by the blue 83 percent?

10      **A**       Correct.

11      **Q**       Okay. And the gray 17 percent represents what?

12      **A**       That's just other entities that are not Ohioans For  
13       Energy Security.

14      **Q**       Okay. And did you find similar percentages for the  
15       other Constant Content account?

16      **A**       Yes.

17      **Q**       And what were those percentages?

18      **A**       84 percent and 16 percent, 84 percent funded by  
19       Ohioans For Energy Security.

20      **Q**       Okay. And for the 9192 account, what did you find?

21      **A**       That 87 percent was funded by Generation Now.

22      **Q**       Okay. And 13 percent from other sources?

23      **A**       Others, yes.

24      **Q**       All right. And so if we look, you also have a total  
25       depiction there, what is that?

1       **A**       So that just shows -- I guess from the first layer of  
2 source that that shows where the funds directly came from  
3 for all three entities.

4                  MS. GLATFELTER: Okay. And, Ms. Terry, if we can  
5 advance to the next page, please.

6       **Q**       All right. Mr. Hartsel, can you describe what this  
7 shows?

8       **A**       So this is just the same showing percentages with the  
9 familiar format we followed before of a pie chart. It's  
10 broken down into three categories, 14 percent are other  
11 entities, 25 percent is Ohioans For Energy Security, and  
12 61 percent is Generation Now.

13                 MS. GLATFELTER: Okay. Your Honor, permission to  
14 publish at the same time Exhibit 153, which has already been  
15 admitted?

16                 THE COURT: Yes.

17                 MS. GLATFELTER: Okay.

18       **Q**       Agent Hartsel, I wanted to publish Ohioans For Energy  
19 Security deposits on the right side of the screen while  
20 we're looking at the JPL and Constant Content, deposits into  
21 that account, and I wanted to understand the source of those  
22 accounts like we discussed a few moments ago.

23       **A**       Yes.

24       **Q**       Okay. Can you describe that for us?

25       **A**       Yes. So basically, the reason why we grouped in

1 similar color and similar fashion the funding that came from  
2 Ohioans For Energy Security and Generation Now is because if  
3 you look at the -- peeling back one layer of the onion or  
4 going back one pivot, if you look at the source of Ohioans  
5 For Energy Security, 99.7 percent of the funds into the  
6 Ohioans For Energy Security account come from Generation  
7 Now.

8 **Q** Okay. And so --

9 **A** Yeah. Sorry.

10 **Q** So when we look at the 99.7 percent chart on the  
11 right, which is Exhibit 153, what piece of the pie chart  
12 does that correlate with on the left side of the screen?

13 **A** The 25 percent.

14 **Q** Okay. And so you could have also labeled this as  
15 86 percent from Generation Now?

16 **A** Correct.

17 MS. GLATFELTER: All right. Ms. Terry, if we can  
18 take down 153 and we could advance to page 4.

19 **Q** All right. Mr. Hartsel, this final page of the  
20 exhibit, can you describe what we're looking at here?

21 **A** So instead of percentages, this is just showing the  
22 scale of the amount of money that came into the Constant  
23 Content accounts and the JPL accounts along with, once  
24 again, a total on the right, and this is broken down by  
25 millions of dollars.

1       **Q**     Okay. So you've replaced the percentages with a  
2              dollar value?

3       **A**     Correct.

4       **Q**     And can you go through those for us, please?

5       **A**     Yes. So on the left, you'll see Constant Content  
6              account ending in 4045 shows a total of \$2.7 million coming  
7              in.

8       **Q**     And who did that come in from?

9       **A**     That came in mostly from Ohioans For Energy Security.

10      **Q**     And as we just saw, Ohioans For Energy Security was  
11              funded by what entity?

12      **A**     Generation Now.

13      **Q**     Okay.

14      **A**     And then Constant Content account ending in 1219,  
15              there's \$2.2 million that comes in from Ohioans For Energy  
16              Security. And in the JPL Associates account ending in 9192,  
17              \$10.9 million comes in from Generation Now. So the total  
18              for all three of the accounts is \$10.9 million for  
19              Generation Now and \$4.4 million for Ohioans For Energy  
20              Security, which means indirectly \$15.3 million came in from  
21              Generation Now.

22      **Q**     And 2.6 million over time from other sources?

23      **A**     That's correct.

24      **Q**     Okay. Now, Mr. Hartsel, did you have the opportunity  
25              to schedule the outflows or the payments out of the account

1 from the JPL 9192 account in 2018?

2 **A** Yes.

3 **Q** And did you do the same for the Constant Content  
4 account ending in 4045 in 2018?

5 **A** Yes.

6 MS. GLATFELTER: Your Honor, permission to show the  
7 witness what's been marked as Exhibit 35?

8 THE COURT: Yes.

9 MS. GLATFELTER: Thank you.

10 **Q** Mr. Hartsel, do you recognize Government's Exhibit 35?

11 **A** Yes.

12 **Q** Okay. Can you please explain to us what it is?

13 **A** So this is showing the outflows for two accounts, for  
14 JPL ending in 9192 and for Constant Content ending in 4045,  
15 listed by entity, by beneficiary or payee, from the greatest  
16 beneficiary down to the lowest.

17 **Q** And did you prepare this table?

18 **A** Yes.

19 **Q** And did you prepare it in the same way that you have  
20 described preparing the others during your testimony?

21 **A** Yes.

22 MS. GLATFELTER: Your Honor, permission -- I'm  
23 sorry, move to admit Exhibit 35 and publish for the jury?

24 THE COURT: Any objections?

25 MR. OLESKI: No, Judge.

1 MR. SCHNEIDER: No objection.

2 THE COURT: It's admitted. You may publish.

3 MS. GLATFELTER: Thank you.

4 **Q** Mr. Hartsel, this should come up for the jury in a few  
5 seconds. There we go.

6 If we can start at the top of the chart, can you tell  
7 us what the title of this is?

8 **A** 2018 Outflows From JPL Controlled Accounts, Constant  
9 Content Account Number Ending in 4045 and JPL Account Ending  
10 in 9192.

11 **Q** Okay. And so this particular outflow chart looks at a  
12 particular year?

13 **A** Correct.

14 **Q** Okay. And what year is that?

15 **A** 2018, 2018.

16 **Q** Okay. For JPL, what are the top four entities that  
17 received money out of the JPL account?

18 **A** Red Maverick Media received approximately \$940,000.  
19 Paychex received approximately \$270,000. Arena Online, LLC  
20 received approximately \$240,000. And Storytellers Group,  
21 LLC received approximately \$218,000.

22 **Q** Okay. And if we go down further on that chart, do you  
23 see an entry for Allen, Kuehale, Stovall & Newman?

24 **A** Yes.

25 **Q** And how much did that entity receive?

1       **A**      From both accounts in total, \$140,000 approximately,  
2                   75,000 exactly from Constant Content ending in 4045 and  
3                   approximately 65.3 thousand dollars from 9192.

4       **Q**      So you mentioned \$75,000 from the Constant Content  
5                   account?

6       **A**      Yes.

7       **Q**      Were there any other payments that you found during  
8                   2018 from that account?

9       **A**      No.

10      **Q**      Okay. And if we go further down the chart, are there  
11                  entries for Anna Lippincott & Associates and MC Fitzmartin,  
12                  LLC?

13      **A**      Yes.

14      **Q**      And how much did they receive during 2018 from the JPL  
15                  account?

16      **A**      The Anna Lippincott & Associates received  
17                  approximately \$47,000, and the MC Fitzmartin, LLC received  
18                  approximately \$58,000.

19      **Q**      Okay. And if you go down a little bit further, do you  
20                  see the Pullins law firm?

21      **A**      Yes.

22      **Q**      All right. Did they receive any money or did it  
23                  receive any money during 2018?

24      **A**      Yes.

25      **Q**      How much money?

1       **A**      \$27,500.

2       **Q**      Okay. So how much money flowed out of these two  
3                  accounts total in 2018?

4       **A**      \$3.4 million.

5       **Q**      Okay. Now, there's one account that we saw in the  
6                  previous chart that received deposits but it's not depicted  
7                  on this chart in terms of payments; can you tell us why?

8       **A**      Because I believe, if I recall, there are no outflows  
9                  for 2018.

10      **Q**      Now, Mr. Hartsel, how many different bank accounts,  
11                  approximately, did you review and schedule in this  
12                  investigation?

13      **A**      I believe it was 95.

14      **Q**      And did you calculate the length of time deposits  
15                  stayed in these accounts during the time frame of your  
16                  investigation?

17      **A**      I did, yes.

18      **Q**      What was that number?

19      **A**      For the Ohioans For Energy Security account -- I  
20                  should say this, for every year, it was actually different  
21                  for each account, and, unfortunately, I can't recall  
22                  specifically for 2018 the amount of time that the deposits  
23                  stayed in the JPL accounts.

24      **Q**      Can you give us a few examples of calculations or the  
25                  numbers that you found for different accounts, if you can

1       recall any of those?

2       **A**       Sure. So for 2019, I calculated the average number of  
3       days that a deposit stayed in the Ohioans For Energy  
4       Security account as about five days. And I believe --  
5       that's all I can recall with confidence, I'm sorry.

6       **Q**       Okay. That's fine.

7                   MS. GLATFELTER: One moment, Your Honor.

8                   THE COURT: Yes.

9                   MS. GLATFELTER: No further questions. Thank you,  
10          Your Honor.

11                  THE COURT: Very well. The attorneys for the  
12          defendants have an opportunity to examine. On behalf of  
13          Mr. Householder?

14                  MR. OLESKI: Thank you, Judge.

15                  THE COURT: Yes.

16                  MR. OLESKI: May I proceed?

17                  THE COURT: Yes. Thank you.

18                  MR. OLESKI: Good morning, sir.

19                  THE WITNESS: Good morning.

20                  MR. OLESKI: Just have a few questions for you.

21                   **CROSS-EXAMINATION**

22                   **BY MR. OLESKI:**

23        **Q**       So when you testified last week on direct examination,  
24        I think you indicated that after you graduated from college,  
25        you started as a financial auditor at Honda; is that right?

1       **A**     At Schneider Downs.

2       **Q**     And then you transitioned to Honda, right?

3       **A**     Correct.

4       **Q**     And part of your duties and responsibilities both when  
5              you initially graduated from college and then when you  
6              worked at Honda revolved around, you know, what you referred  
7              to as closing the books?

8       **A**     Correct.

9       **Q**     And what that means is ensuring the transactions added  
10              up on, you know, financial statements, correct?

11      **A**     Correct.

12      **Q**     You worked at that, you worked at Honda, until about  
13              2016; is that right?

14      **A**     That's correct.

15      **Q**     And in 2016, you joined the FBI, correct?

16      **A**     That's correct.

17      **Q**     And your role at the FBI is you support the FBI's  
18              investigations of financial crimes, right?

19      **A**     That's correct.

20      **Q**     Because that's what your education and your employment  
21              responsibilities focused on prior to joining the FBI --

22      **A**     That's correct.

23      **Q**     -- correct?

24              And in connection with this investigation, you  
25              reviewed I think about 90 or 95 bank records, right?

**A** Correct.

2 Q And to assist in your review of those bank records,  
3 you utilized a software program called BankScan, right?

**A** That is correct.

5 Q And, essentially, if I understood your testimony on  
6 direct examination correctly, what BankScan is is it's a  
7 program that scans in all of these paper bank accounts; is  
8 that right?

**A** Generally speaking, yes, yes.

10 Q Scans in the bank statements, I should say; is that  
11 right?

12       **A**       Yes. We use OmniPage along with it; that converts it  
13                  to like a text file and the text file is adjusted by  
14                  BankScan.

15 Q And then, ultimately, BankScan creates an Excel  
16 spreadsheet of those bank statements, correct?

17 A That's correct.

18 Q And you utilize those Excel spreadsheets to manipulate  
19 the data that's generated by BankScan, correct?

**A** Yes, that's correct.

21 Q And ultimately, all of the exhibits that you looked at  
22 on your direct examination last week and today, those  
23 weren't records that were produced by various financial  
24 institutions, correct?

25 A That's correct.

1       **Q**      Those were documents that were created by you?

2       **A**      That's correct.

3       **Q**      And you created those documents utilizing BankScan and  
4                   Excel; is that correct?

5       **A**      That's correct.

6       **Q**      Now, during the course of your direct examination, you  
7                   looked at summaries for a number of different entities,  
8                   right?

9       **A**      Yes.

10       **Q**      Including summaries that you created for Generation  
11                  Now and Ohioans For Energy Security, correct?

12       **A**      Yes.

13       **Q**      And during the course of your investigation, I think  
14                  you testified that Ohioans For Energy Security received  
15                  almost all of its moneys from Generation Now, correct?

16       **A**      Yes.

17       **Q**      All but about 70 or \$80,000; is that right?

18       **A**      I can't recall exact amounts.

19       **Q**      Fair enough.

20                  And ultimately, you prepared summaries for both  
21                  Generation Now and Ohioans For Energy Security, right?

22       **A**      Correct.

23       **Q**      And for both of those, you created a summary showing  
24                  moneys going into those accounts; is that right?

25       **A**      Yes.

1       **Q**     And then moneys leaving those accounts, right?

2       **A**     That's correct.

3       **Q**     And ultimately, for the Ohioans For Energy Security  
4           account, the moneys going into that account are all  
5           Generation Now moneys, right?

6       **A**     Yes.

7       **Q**     And so the summary for Generation Now and the summary  
8           for Ohioans For Energy Security, they should be the same,  
9           right?

10      **A**     So you might have some irreconcilable differences  
11           because some of the records that you don't receive on one  
12           end when you subpoena the records won't equal the records on  
13           the other end.

14      **Q**     But those differences should be, you know, relatively  
15           minuscule; is that right?

16      **A**     Yes.

17                   MR. OLESKI: Your Honor, may I publish Government  
18                   Exhibit 153, which has been admitted?

19                   THE COURT: Yes.

20      **Q**     Sir, do you recognize this document?

21      **A**     Yes.

22      **Q**     This is the summary you created for the Ohioans For  
23           Energy Security account, right?

24      **A**     Yes.

25      **Q**     And this shows all of the deposits that were made into

1           the Ohioans For Energy Security account, right?

2       **A**     Yes.

3       **Q**     So from August of 2019 until February of 2020,

4           correct?

5       **A**     Yes.

6       **Q**     And with the exception of the Lincoln Strategy Group  
7           deposit on October 18th and the Strategy Media Placement  
8           deposit on December 18th, all of the moneys going into the  
9           Ohioans For Energy Security account are from Generation Now,  
10          correct?

11      **A**     Yes.

12      **Q**     And the deposits by Lincoln Strategy Group and  
13           Strategic Media Placement are relatively nominal, correct?

14      **A**     They are smaller, yes.

15      **Q**     About 70 or \$80,000?

16      **A**     That's correct.

17      **Q**     And what's the total amount of deposits according to  
18           your summary into the Ohioans For Energy Security bank  
19           account?

20      **A**     Approximately, \$23.4 million.

21      **Q**     And you also created a summary for the Generation Now  
22           bank account, right?

23      **A**     That's correct.

24      **Q**     And showing moneys that left the Generation Now bank  
25           account, right?

1       **A**     Yes.

2                  MR. OLESKI: Judge, could we publish Government  
3                  Exhibit 18, which has been admitted?

4                  THE COURT: Yes.

5       **Q**     Recognize this document, sir?

6       **A**     Yes.

7       **Q**     This is the summary for the Generation Now bank  
8                  account, correct?

9       **A**     Yes.

10      **Q**     That you created?

11      **A**     Yes.

12                  MR. OLESKI: Could we advance to page 4, PJ?

13                  And, Judge, if we could publish side by side page 4 of  
14                  Government Exhibit 18 and Government Exhibit 153 --

15                  THE COURT: Yes.

16                  MR. OLESKI: -- both of which have been admitted?

17                  THE COURT: Yes.

18      **Q**     Fair to say that these two numbers don't add up?

19      **A**     Yes.

20      **Q**     There's about a \$2 million difference between the  
21                  summary you created in Government Exhibit 18 and the summary  
22                  you created in Government Exhibit 153, correct?

23      **A**     Yes.

24      **Q**     That's not a minuscule difference, you'd agree with  
25                  me, correct?

1       **A**      I agree.

2       **Q**      And you would agree that either you failed to include  
3                  a deposit on Government Exhibit 153 or you double counted a  
4                  deposit, correct?

5       **A**      I'd say it's just a missing deposit, yes, that's  
6                  correct.

7       **Q**      But either way, either way, these exhibits are  
8                  inaccurate, correct?

9       **A**      No, I would not describe them as inaccurate.

10      **Q**      Well, fair to say that the numbers don't add up,  
11                  right?

12      **A**      That's correct.

13      **Q**      And you created Government Exhibit 18 and Government  
14                  Exhibit 153 in the same manner that you created the other  
15                  summaries that we looked at?

16      **A**      That's correct.

17                  MR. OLESKI: Moment to confer, Judge?

18                  THE COURT: Yes.

19                  MR. OLESKI: No further questions, Judge. Thank  
20                  you.

21                  THE COURT: Very well.

22                  MR. SCHNEIDER: Judge, we have no questions of this  
23                  witness.

24                  THE COURT: Very well. Any redirect?

25                  MS. GLATFELTER: Yes. Judge, permission to publish

1 those same exhibits again, 153 and 18, side by side?

2 THE COURT: Yes.

## **REDIRECT EXAMINATION**

4 BY MS. GLATFELTER:

5           **Q**       Mr. Hartsel, what's the difference between these two  
6           charts?

7 | A I --

8      In terms of dates.

**A** Well, one is for 2019 and one includes 2020 deposits.

10 Q Right. And so there's a difference in date ranges  
11 that you're looking at for these two accounts?

12 A That's correct.

13 MS. GLATFELTER: All right. Thank you. No further  
14 questions.

THE COURT: Recross, if any?

16 MR. OLESKI: Yes. Judge if I may publish the same  
17 two exhibits?

18 THE COURT: Yes

## **BECROSS-EXAMINATION**

BY MB OLESKY

21 Q So there's -- the difference between these two  
22 exhibits are that the exhibit on the right includes 2020  
23 deposits, correct?

24 A Correct.

25      o      What is the amount of the 2020 deposits on

1           Exhibit 153?

2       **A**       \$23.4 million.

3       **Q**       What is the very last line, the February 4th, 2020,  
4 deposit that Generation Now made?

5       **A**       \$40,000.

6       **Q**       And that's the only deposit that was made in 2020,  
7 correct?

8       **A**       I can't recall, I'm sorry.

9       **Q**       Well, you created these documents, correct?

10      **A**       That's correct.

11      **Q**       And you tried to create them accurately, correct?

12      **A**       That's correct.

13      **Q**       And you would agree with me that these exhibits are  
14 not accurate?

15      **A**       I --

16                  MS. GLATFELTER: Your Honor, move to strike.

17                  MR. OLESKI: No further questions. I withdraw the  
18 question.

19                  THE COURT: Objection is sustained.

20                  And there are no further questions of this witness; is  
21 that right?

22                  MS. GLATFELTER: Correct, Your Honor. Thank you.

23                  THE COURT: Very well. You are free to go, sir.

24                  THE WITNESS: Thank you.

25                  (Witness left the stand.)

1                   THE COURT: Where do we stand from the government's  
2 perspective?

3                   MS. GAFFNEY-PAINTER: The government is prepared to  
4 call its next witness, Your Honor.

5                   THE COURT: Very well. If you would do so.

6                   MS. GAFFNEY-PAINTER: The government calls Laura  
7 Lanese.

8                   THE COURT: Very well. We've gone to retrieve the  
9 witness. Give us just a moment.

10                  (Pause.)

11                  THE COURT: If the witness would approach and  
12 follow Ms. Santoro. And as you arrive, ma'am, would you  
13 pause and raise your right hand for the oath to tell the  
14 truth?

15                  (Witness took the stand and was sworn.)

16                  THE COURT: Very well. I tell everyone this, the  
17 chair tips back.

18                  THE WITNESS: Okay. Thank you.

19                  THE COURT: Be careful. And we're going to need  
20 you very close to the fancy government microphone. Did you  
21 break something?

22                  THE WITNESS: No, not yet anyway.

23                  THE COURT: Very well. The government will begin  
24 with its questions. Ms. Painter, you may approach.

25                  MS. GAFFNEY-PAINTER: Thank you, Your Honor.

1                   THE COURT: Very well. You can take your mask off.  
2 You don't have to.

3                   THE WITNESS: Thank you.

4                   THE COURT: We allow the witness and the examining  
5 attorney.

6                   THE WITNESS: Thank you.

7                   MS. GAFFNEY-PAINTER: May I proceed?

8                   THE COURT: Yes. Thank you.

9                   MS. GAFFNEY-PAINTER: Good morning, Ms. Lanese.

10                  THE WITNESS: Good morning.

11                  **LAURA LANESE**

12                  **DIRECT EXAMINATION**

13                  **BY MS. GAFFNEY-PAINTER:**

14                  **Q**        Ms. Lanese, would you please state and spell your name  
15 for the record?

16                  **A**        Laura Lanese, L-A-U-R-A, L-A-N-E-S-E.

17                  **Q**        What is your educational background?

18                  **A**        I have a bachelor's degree from Miami University, a  
19 juris doctoral law degree from The Ohio State University,  
20 and then a master of law -- laws from Georgetown University.

21                  **Q**        Where do you currently work?

22                  **A**        I work at the Inner-University Council.

23                  **Q**        Have you ever in your professional life served as an  
24 Ohio State Representative?

25                  **A**        Yes, I have.

1       **Q**     For what district?

2       **A**     For the 23rd.

3       **Q**     And when did you serve?

4       **A**     I served from 2017 until November of this past year.

5       **Q**     When did you first meet Larry Householder?

6       **A**     I think the very first time I met him, we had been  
7                 assigned to do legislation together. It had come up  
8                 individually. I -- it was legislation to help police  
9                 officers carry off duty, concealed carry off duty. I had  
10                 had two police officers in my office, and I was a relatively  
11                 new representative and decided to write this legislation,  
12                 and then it turned out that Larry Householder was doing the  
13                 same thing, and so they joined us on that legislation.

14       **Q**     When Larry Householder sought the Speakership of the  
15                 House, did you support him or Ryan Smith?

16       **A**     Ryan Smith.

17       **Q**     Now, after Larry Householder was elected Speaker of  
18                 the House, did your position within the House change?

19       **A**     Yes. I -- he had asked me to be a part of his  
20                 leadership team.

21       **Q**     Did Mr. Householder tell you why he had asked you to  
22                 serve in the leadership team?

23       **A**     Not really, and it was quite a surprise. After the  
24                 election of the new Speaker, those of us who had been on  
25                 Ryan Smith's team had assumed that, you know, we wouldn't be

1 getting anything, and so I didn't realize it at the time  
2 because it was only my second term, but, typically, at some  
3 point you ask for what you want. My first term we were  
4 pretty much told what committees and they did it in writing.  
5 So when he called me into his office, I didn't know what to  
6 expect, and he asked me if I wanted to be on his leadership  
7 team, and it was really quite a surprise.

8 **Q** Did you accept his offer to join his leadership team?

9 **A** Not immediately. I told him I needed to speak to my  
10 husband, and then I called Ryan Smith to see what he thought  
11 about my doing it. I didn't want it to appear that I was,  
12 you know, being disloyal or anything like that. And then I  
13 called a few other people, and they encouraged me to do it,  
14 to be kind of a bridge between those who were on Ryan  
15 Smith's team, so that there would at least be, you know, a  
16 conduit or a presence on the leadership team.

17 **Q** During your time as a Representative, did you learn of  
18 a piece of legislation known as House Bill 6?

19 **A** Yes, I did.

20 **Q** Now, what was your initial position on House Bill 6?

21 **A** I was against it.

22 **Q** Why is that?

23 **A** It had started to bubble around that it might come up  
24 for a vote, and I didn't understand exactly what was  
25 involved with it, and I also didn't understand that there

1       were a lot of people that were talking about it and that  
2       there were two different positions to take. And it wasn't  
3       until one of the other leadership members, I saw him taking  
4       a vote tally and I asked him what he was doing, and he said  
5       I'm seeing if people are -- and I was never fully  
6       informed of this, so I might be a little bit vague. But  
7       there was Position A or Position B, and Position A was more  
8       for some of the -- to get more Republicans on board because  
9       they were having a hard time getting votes, or Position B,  
10      for getting more Democrats on board. And so this person  
11      said I'm going to put you down for A, and I said don't put  
12      me down for anything, I'm not going to be voting for that,  
13      and that was it for a while.

14           And the more I looked at it and researched it, the more  
15      dug in I got, to me it was a very anti free market piece of  
16      legislation. It was the government weighing in and helping  
17      one industry to the detriment of others. So by giving lots  
18      of money to these two nuclear power plants, other industries  
19      like renewable energy or natural gas would be at a  
20      detriment.

21           But it also seemed very unfair to my constituents and  
22      the entire state to make them pay for this very expensive  
23      bailout for these nuclear power plants when we didn't even  
24      know if they needed the money, and that seemed to be a very  
25      big issue for some of my colleagues. We didn't know if they

1 even had a need for this kind of money.

2 **Q** Now, did your position as to House Bill 6 ever change?

3 **A** No.

4 **Q** How would you describe the intensity of the effort to  
5 pass House Bill 6?

6 **A** It was pretty strong. It was all anyone was talking  
7 about at the time, and I didn't personally experience the  
8 intensity until right before the vote when they found out  
9 that they were short one vote. And at one point in time, we  
10 gathered in the Speaker's office and it was mostly the  
11 leadership team and the policy staff and the leadership  
12 staff, and they were trying to figure out where they were  
13 going to get the one vote. And I was sitting in the room,  
14 and they knew that I could make their lives a lot easier if  
15 I just conceded. And we're sitting around this big table,  
16 and the Speaker turns to me and he said, Laura, I really  
17 need your vote. And I said, I'm sorry, Mr. Speaker, I can't  
18 do that. And then it got really quiet and everybody was  
19 staring at me and it was very uncomfortable.

20 And they started trying to figure out other ways to get  
21 the vote. There was somebody who was out of town, out of  
22 country or something. And so after several more minutes of  
23 trying to figure out where else to get the vote, Householder  
24 turned to me and he said, Laura, I really need your vote.  
25 And I replied almost exactly the same, and I said, I'm

1           sorry, I can't give that to you, Mr. Speaker.

2           And at that point, there was a lot of tension in the  
3           room. Somebody slammed something on the desk, somebody  
4           pushed back from their chair, a lot of, you know, sighing  
5           and just very built-up frustration. And then Speaker said  
6           something and we all left the room, and that was probably  
7           the -- you know, the hardest part and that's where I felt it  
8           the most.

9       **Q**       Now, outside of the House in your district, was there  
10          any media circulated about your vote on House Bill 6?

11      **A**       Sure. I live in the Columbus area, so there was a lot  
12          of media on the vote, and mailers were sent. And I started  
13          getting it from my friends and other people saying -- one  
14          person sent it to me and said, hey, you're very popular and  
15          sent me a copy of what he had received. And so when I would  
16          go out in town, people would talk about it. And even when I  
17          went to church, I had one of the little old ladies that I  
18          know come up to me and whisper in my ear and said, I hope  
19          you don't vote for this, and I said I've already said that  
20          I'm not, and it made her very happy. But, yes, in my  
21          district it was a very well-known bill.

22      **Q**       Did House Bill 6 ultimately pass?

23      **A**       Yes, it did.

24      **Q**       Now, in the ballot referendum period after House Bill  
25          6 passed, do you recall any leadership meetings where

1       signature collection efforts or signature collectors were  
2       discussed?

3       **A**       There was one discussion, and, again, this happened in  
4       the Columbus area. There was an individual that had been  
5       assaulted collecting signatures outside of a library, and he  
6       was Asian, and I was part of a discussion with the  
7       leadership team, and at the time, the press was saying this  
8       is what happens when you have, you know, ads saying that the  
9       Chinese are behind this, they're here to attack the American  
10      grid and --

11                  THE COURT: Excuse me, there's an objection. And  
12                  the basis?

13                  MR. GLICKMAN: Hearsay and speculation.

14                  THE COURT: Sounds like hearsay. Sustained.  
15                  Re-ask or move on.

16       **Q**       Ms. Lanese, if you could describe that leadership  
17       meeting without referencing, please, what the media was  
18       reporting or what the media said?

19       **A**       Sure, sure. So it was taken in the opposite way that  
20       I thought that -- the way that I had viewed it, that this  
21       was proof that, you know, it was causing some, you know,  
22       some heart -- hard effects on people of Asian descent, and  
23       it was a little bit of a joke that their efforts were  
24       working that --

25                  MR. GLICKMAN: Objection, Evidence Rule 403.

1                   THE COURT: Sustained. Let's move along.

2       **Q**       Ms. Lanese, when you ran for reelection in 2020, did  
3                   you receive assistance from the Republican Caucus?

4       **A**       It was -- it was just starting at about the time,  
5                   maybe a month before the arrest. Typically, in years past,  
6                   we would get a lot of support at the end of the year before  
7                   the election, help with gathering signatures, and then we  
8                   would start to have meetings and have a more coordinated  
9                   effort, that wasn't happening this time.

10      **Q**       Now, were you involved in efforts to repeal House Bill  
11                  6?

12      **A**       Yes. Immediately after the --

13                   MR. GLICKMAN: Objection, Judge. Relevance.

14                   THE COURT: This is really not about House Bill 6.  
15                  I'll overrule it and give you some latitude.

16                  Were you involved in efforts to repeal House Bill 6?

17                  THE WITNESS: Yes, sir.

18                  THE COURT: All right.

19                  MR. SINGER: May I have a moment to confer, Your  
20                  Honor?

21                  THE COURT: Yes.

22                  (Pause.)

23      **Q**       Ms. Lanese, what is the current state of the  
24                  legislation House Bill 6?

25                  MR. GLICKMAN: Objection, Judge. Relevance.

1                   THE COURT: I thought we had ruled on this. I'll  
2 give you a little more latitude. You can answer the  
3 question.

4                   THE WITNESS: My bill didn't go anywhere. There  
5 was a partial repeal bill because the FirstEnergy had found  
6 out that there was --

7                   MR. GLICKMAN: Objection, Judge.

8                   THE COURT: Sustained.

9                   MS. GAFFNEY-PAINTER: No further questions, Your  
10 Honor.

11                  THE COURT: Very well. The lawyers for the  
12 defendants have an opportunity to inquire.

13 Cross-examination on behalf of Mr. Householder, if any.

14                  MR. GLICKMAN: Thank you, Judge.

15                  THE COURT: Very well.

16                  MR. GLICKMAN: Good morning, Ms. Lanese.

17                  THE WITNESS: Good morning.

18                  MR. GLICKMAN: I'm Rob Glickman. I'm one of the  
19 lawyers for Larry Householder. I just have a few questions  
20 for you. If you just give me one moment, please.

21                   **CROSS-EXAMINATION**

22                   **BY MR. GLICKMAN:**

23                  Q       So you indicated that you were asked to be part of the  
24 leadership team of the Ohio House of Representatives after  
25 Mr. Householder became Speaker?

1       **A**     Yes.

2       **Q**     And other than Mr. Householder, there are five members  
3           of that leadership team, yes?

4       **A**     Correct.

5       **Q**     Okay. And three of them were people who supported  
6           Larry Householder for Speaker, right?

7       **A**     At least, yes.

8       **Q**     Well, you didn't?

9       **A**     Correct.

10      **Q**     So that would be one?

11      **A**     Um-hmm.

12      **Q**     And Bill Seitz didn't, right; he voted for Ryan Smith?

13      **A**     Correct.

14      **Q**     So that would be two, right?

15      **A**     Correct.

16      **Q**     So at least two people asked by Larry Householder to  
17           be on leadership supported Ryan Smith for Speaker?

18      **A**     Correct.

19      **Q**     Okay. You were a no vote on House Bill 6?

20      **A**     Correct.

21      **Q**     Never changed?

22      **A**     Correct.

23      **Q**     You had a number of issues with it, yes?

24      **A**     Correct.

25      **Q**     One of the issues was you felt there wasn't enough

1 transparency in the financial information you were receiving  
2 to show that FirstEnergy Solutions needed the money, fair?

3 **A** That was one of them, yes.

4 **Q** Well, FirstEnergy Solutions was in bankruptcy, wasn't  
5 it?

6 **A** That was one of the questions that I had and was  
7 trying to get more information on.

8 **Q** You weren't sure whether they were in bankruptcy or  
9 not?

10 **A** I was trying to uncover why they were in bankruptcy  
11 and what they were trying to spin off from bankruptcy.

12 **Q** You're a -- well, wait. Sorry. You're an Ohio State  
13 educated lawyer with a master's in law from Georgetown?

14 **A** Correct.

15 **Q** You're aware, when anyone files bankruptcy, its  
16 financial records are submitted to the United States  
17 bankruptcy court?

18 **A** Correct.

19 **Q** And those financial records are a part of a public  
20 docket?

21 **A** Correct. I was trying to find them. Yes.

22 **Q** So you went on the public docket of the United States  
23 Bankruptcy Court and found the financial records of  
24 FirstEnergy Solutions?

25 **A** No. I couldn't find them because I think it was in

1 process at the time.

2 **Q** Okay. Well, the House Bill 6 process lasted for many  
3 months, yes?

4 **A** Yes.

5 **Q** And during those many months, FirstEnergy Solutions  
6 remained in bankruptcy, right?

7 **A** Correct.

8 **Q** And during that period of months or longer, did you  
9 continue to go on the bankruptcy docket and search for the  
10 financial records of FirstEnergy Solutions?

11 **A** I only started looking at the end right before the  
12 vote.

13 **Q** Okay. All right. And did you -- I mean, you have a  
14 master's in law. Was that under one particular speciality?

15 **A** International law.

16 **Q** Oh. And during your -- did you take bankruptcy in law  
17 school?

18 **A** No, sir.

19 **Q** Okay. You're familiar with the term, though, yes?

20 **A** Correct.

21 **Q** Okay. And when one files a bankruptcy in bankruptcy  
22 court, one has to show that it owes more money than it has,  
23 or the bankruptcy court will throw it out, correct?

24 **A** Correct.

25 **Q** Okay. So at the very least, FirstEnergy Solutions

1 owed more than it had, yes?

2 **A** Correct, but we didn't know if they were going to be  
3 able to spin off their bankrupt subdivision and then,  
4 therefore, they wouldn't need the money.

5 THE COURT: I thought I sustained an objection on  
6 this topic during direct and now you're using it to  
7 cross-examine.

8 MR. GLICKMAN: I don't believe -- Judge, I'm  
9 talking about --

10 THE COURT: You can do the best you wish. You may  
11 proceed.

12 MR. GLICKMAN: Okay.

13 **Q** When you said "spin off" that, that aspect, you mean  
14 the aspect that was losing money?

15 **A** Correct. If they were putting in the money-losing  
16 portion, why did they need to be bailed out, if they were  
17 going to get rid of their, you know, declining asset.

18 **Q** Wasn't the declining assets the two nuclear power  
19 plants?

20 **A** Yes. And if they were able to spin them off, then,  
21 why did we need to get the taxpayer to fund them, that was  
22 one of my questions.

23 **Q** Okay. And did you review the Ohio Legislative Service  
24 Commission reports related to the financial condition of --  
25 I'm sorry, related to the -- related to House Bill 6 and

1 what it would have meant to the State of Ohio?

2 **A** I'm not sure which document you're talking about.

3 **Q** Talking about the May 22nd, 2020 report authored by  
4 the Ohio Legislative Service Commission.

5 **A** Is this the one that said that the Ohio taxpayer would  
6 save more money because of the renewable energy?

7 **Q** Among other things.

8 **A** If that's the one you're talking about, then, yes, I  
9 am familiar with that.

10 **Q** Okay. And you indicated you felt some pressure from  
11 people on House Bill 6, yes?

12 **A** Correct.

13 **Q** Okay. And the example that you gave was during that  
14 leadership meeting with Mr. Householder and, I take it, the  
15 other four members of the leadership team?

16 **A** Correct.

17 **Q** Okay. And the pressure you felt was Mr. Householder  
18 urging you to vote yes?

19 **A** Correct.

20 **Q** Okay. And somebody acting, for lack of a better word,  
21 exasperated that you kept with your no vote, yes?

22 **A** Yes.

23 **Q** That was the -- that's the pressure that you felt,  
24 other than I guess the mailing campaign that you testified  
25 about earlier?

1       **A**      No. There were other people asking me to vote for it,  
2                  but in that room at that point in time, it was -- the  
3                  pressure felt palpable, to me, at least.

4       **Q**      Well, during your time as a State Representative,  
5                  other State Representatives often lobbied for your vote on  
6                  various pieces of legislation, yes?

7       **A**      Yes.

8       **Q**      Okay. And you probably lobbied for other votes --

9       **A**      Correct.

10      **Q**      -- from your fellow members; is that fair?

11      **A**      Correct.

12      **Q**      And when you were a no vote, you felt comfortable  
13                  saying no, didn't you?

14      **A**      Yes, but this time was different.

15      **Q**      Well, you still felt comfortable enough to say no that  
16                  you said no, right?

17      **A**      I can tell you I lost sleep for months over it.

18      **Q**      Okay. But you kept with your no vote?

19      **A**      I did, but I also knew that I probably would have a  
20                  very difficult time getting reelected because of it,  
21                  whereas, I never felt that with any other votes.

22      **Q**      Well, when you -- well, maybe I misunderstood. When  
23                  you voted no on House Bill 6, I take it Mr. Householder  
24                  removed you from your leadership position?

25      **A**      No, but later was removed from the Civil Justice

1 Committee.

2 **Q** Okay. But you kept your leadership position?

3 **A** Correct.

4 **Q** Okay. He certainly was within his rights to remove  
5 you, wasn't he?

6 **A** Yes, he was.

7 **Q** But he didn't?

8 **A** Correct.

9 MR. GLICKMAN: Judge, can I just have a moment?

10 THE COURT: Yes.

11 MR. GLICKMAN: I don't have anything further.

12 THE COURT: Very well. Yes, sir, on behalf of  
13 Mr. Borges?

14 MR. SCHNEIDER: I just snapped my mask.

15 **CROSS-EXAMINATION**

16 **BY MR. SCHNEIDER:**

17 **Q** Ms. Lanese, you know Matt Borges, correct?

18 **A** I do.

19 **Q** He didn't talk to you about House Bill 6, correct?

20 **A** He did not.

21 MR. SCHNEIDER: Thanks. No further questions.

22 THE COURT: Very well. Redirect, if any.

23 MS. GAFFNEY-PAINTER: May I have just a moment to  
24 confer, Your Honor?

25 THE COURT: Yes.

1 MS. GAFFNEY-PAINTER: Thank you.

2 (Pause.)

3 MS. GAFFNEY-PAINTER: May I have just a brief  
4 redirect, Your Honor?

5 THE COURT: Yes.

6 **REDIRECT EXAMINATION**

7 **BY MS. GAFFNEY-PAINTER:**

8 **Q** Ms. Lanese, on cross-examination, you were asked a  
9 series of questions about being lobbied by your colleagues  
10 and lobbying yourself in support or against various pieces  
11 of legislation; do you recall those questions?

12 **A** I do.

13 **Q** And I believe on cross-examination you said this time  
14 was different. Can you explain that a little bit more to  
15 us?

16 **A** This was sort of the only thing that appeared to be  
17 going on at the time. It was also during our budget, but  
18 this was the issue that everybody was talking about. And we  
19 knew that this was the Speaker's signature piece of  
20 legislation, and so there was a lot more pressure on this  
21 one particular bill. And the Speaker is the one who sort of  
22 helps fund your campaign. He supports the caucus, our  
23 campaign caucus. And so because of that, it's different  
24 when you go up against, you know, one of your colleagues  
25 versus the person who controls your campaign.

1 MS. GAFFNEY-PAINTER: May I have a moment to  
2 confer, Your Honor?

3 THE COURT: Yes.

4 MS. GAFFNEY-PAINTER: No further questions. Thank  
5 you.

6 THE COURT: Very well. Recross, if any?

7 MR. GLICKMAN: No, thank you, Judge.

8 THE COURT: Very well.

9 MR. SCHNEIDER: None here either.

10 THE COURT: Very well. You are free to go.

11 THE WITNESS: Thank you.

12 THE COURT: Thank you.

13 (Witness left the stand.)

14 THE COURT: Where do we stand from the government's  
15 perspective?

16 MS. GAFFNEY-PAINTER: Your Honor, I believe we are  
17 prepared to call our next witness.

18 THE COURT: Very well. Please do so.

19 MS. GAFFNEY-PAINTER: Government calls Josh Altic.

20 THE COURT: Someone going to retrieve that witness?

21 THE DEPUTY: I believe he's getting checked in  
22 right now in the lobby.

23 MS. GAFFNEY-PAINTER: Your Honor, our witness is  
24 being checked in in the lobby, so if this would be a good  
25 time to take a morning break, the government would be in

1 support of that.

2 THE COURT: Very well. We'll take a 20-minute  
3 break. During the break, take a break. Don't discuss it  
4 among yourselves or with anyone else. No independent  
5 research. No checking out media. Continue to keep an open  
6 mind. We will rise out of respect for you as you leave for  
7 the 20-minute break.

8 THE DEPUTY: All rise for the jury.

9 (Jury exited the courtroom at 10:24 a.m.)

10 THE COURT: The jury is leaving the room. As  
11 always, we'll wait until we're advised that they have  
12 cleared the floor, and then we'll break until 10:45.

13 THE DEPUTY: All clear.

14 THE COURT: We're going to break until 10:50,  
15 recess until that time.

16 THE DEPUTY: All rise. This court is in recess  
17 until 10:50.

18 (Recess taken from 10:26 a.m. to 10:51 a.m.)

19 THE DEPUTY: All rise. This court is back in  
20 session pursuant to the recess.

21 THE COURT: Thank you. Please be seated. I  
22 understand the lawyers want to talk to me outside the  
23 presence of the jury. Who wishes to be heard on what?

24 MS. GLATFELTER: Your Honor, I think both parties.  
25 We anticipate we would be ending early today just based on

1       the pace that we're going. So we tried to call another  
2 witness to have him here. We would like to let defense  
3 counsel know this was a witness we were going to call on  
4 Friday. We let defense counsel know on Friday and  
5 apparently Counsel Mark Marein was going to cross, so I  
6 don't know if this will disrupt plans or not.

7                     THE COURT: For the record, Mr. Marein is not here.  
8 Court excused him for health reasons, not related to COVID  
9 at the defendants' request, correct, on behalf of  
10 Mr. Householder?

11                    MR. OLESKI: That's correct, Judge.

12                    THE COURT: What does this do to your planning,  
13 what the prosecutor just suggested? Do you wish to be  
14 heard?

15                    MR. BRADLEY: We have two issues. Number one, it  
16 is Mr. Marein that is prepared to examine this witness,  
17 No. 1, and, No. 2, we did receive some additional  
18 information regarding this witness. So under those  
19 circumstances, it would be our preference that we not go  
20 forward with this witness today.

21                    THE COURT: I think that's a reasonable request.  
22 Was there something else, Mr. Bradley?

23                    MR. BRADLEY: No.

24                    THE COURT: All right. Just clue me in, the next  
25 witness the government intends to call, we're all ready to

1 go on that witness. After that witness, where do we stand  
2 from the government's sense?

3 MS. GLATFELTER: We have two more witnesses lined  
4 up for today.

5 THE COURT: One and two.

6 MS. GAFFNEY-PAINTER: One that will be testifying  
7 now, Mr. Altic, and two more after that who are prepared to  
8 go, and defense counsel was provided notice of those  
9 witnesses last night. This was just we had an additional  
10 witness coming to fill in the space.

11 THE COURT: Very well.

12 MS. GAFFNEY-PAINTER: That was the new witness.

13 THE COURT: Very well. We'll get through those  
14 three witnesses and adjourn for the day, is the request of  
15 the defense, which the Court understands and is amenable; is  
16 that right, Mr. Bradley?

17 MR. BRADLEY: That's correct, Judge.

18 THE COURT: So we're prepared to call another  
19 witness.

20 Are we ready for the jury from the government's  
21 perspective?

22 MS. GAFFNEY-PAINTER: Yes, Your Honor.

23 THE COURT: And Mr. Householder's?

24 MR. OLESKI: Yes, Judge.

25 THE COURT: And Mr. Borges'?

1                   MR. SCHNEIDER: Yes, Judge.

2                   THE COURT: Let's call for the jury. And we'll get  
3 the witness as soon as the jury enters the room.

4                   (Pause.)

5                   THE DEPUTY: All rise for the jury.

6                   (Jury entered the courtroom at 10:57 a.m.)

7                   THE COURT: You may all be seated. Thank you. 14  
8 Members of the Jury have rejoined us after the break. We're  
9 going to continue to hear testimony.

10                  Who does the government call at this time?

11                  MS. GAFFNEY-PAINTER: Your Honor, the government  
12 calls Josh Altic.

13                  THE COURT: Very well. If the gentleman would be  
14 willing to approach and follow Ms. Santoro. You're coming  
15 to the witness stand, and if you would pause where you are,  
16 sir, raise your right hand for the oath to tell the truth.

17                  (Witness sworn and took the stand.)

18                  THE COURT: Very well. I tell everybody this, the  
19 chair tips back, so be careful.

20                  THE WITNESS: Thank you.

21                  THE COURT: Once you've settled, move that  
22 expensive microphone.

23                  Ms. Painter, you can approach and may proceed.

24                  MS. GAFFNEY-PAINTER: Thank you, Your Honor.

25                  Good morning, Mr. Altic.

1                   THE WITNESS: Good morning.

2                   **JOSH ALTIC**

3                   of lawful age, Witness herein, was examined and testified as  
4                   follows:

5                   **DIRECT EXAMINATION**

6                   **BY MS. GAFFNEY-PAINTER:**

7                   **Q**       What is your educational background?

8                   **A**       I have a bachelor's degree in liberal arts.

9                   **Q**       In what, in what area of study?

10                  **A**       Philosophy and some political history, and  
11                  mathematics, mostly.

12                  **Q**       Mr. Altic, if I may, would you just approach the  
13                  microphone a bit closer?

14                  THE COURT: Towards you.

15                  THE WITNESS: Yeah. How's that?

16                  THE COURT: Could we get the name of the witness  
17                  for the Judge's edification?

18                  MS. GAFFNEY-PAINTER: I apologize.

19                  **Q**       Would you please state your name and spell it for the  
20                  record?

21                  **A**       Josh Altic, A-L-T-I-C.

22                  **Q**       Mr. Altic, where do you work?

23                  **A**       I work for Ballotpedia dot org, which is a nonprofit  
24                  organization that does political information, neutral,  
25                  unbiased political information.

1       **Q**     And what is your title at Ballotpedia?

2       **A**     I am director of research for Ballotpedia.

3       **Q**     What are your responsibilities as director of research  
4                  for Ballotpedia?

5       **A**     I field all research requests and provide research  
6                  support for the editorial and communications departments. I  
7                  work with external relations to draft proposals for various  
8                  research. I do research on everything from candidates to  
9                  ballot measures to miscellaneous political data that anyone  
10                 might want.

11      **Q**     How long have you worked with Ballotpedia?

12      **A**     Over ten years now.

13      **Q**     And what professional roles have you had at  
14                  Ballotpedia?

15      **A**     Since -- well, until about seven months ago, I worked  
16                  primarily in the ballot measures department for Ballotpedia,  
17                  so I started there as a staff writer and worked through -- I  
18                  was project director for many years and then ended with that  
19                  project as managing editor for a couple of years.

20      **Q**     How long were you a managing editor of Ballotpedia?

21      **A**     Since 2016, June of 2016.

22      **Q**     And what was your specific area of focus?

23      **A**     I managed all of our ballot measure related content on  
24                  the Ballotpedia website. So I was responsible for editorial  
25                  content and news content about ballot measures, both in

1       terms of tracking the current cycle of ballot measures,  
2       creating our historical database of ballot measures, as well  
3       as compiling a database of the laws governing the process  
4       for ballot measures, and the rules that govern the  
5       initiatives in each state.

6           I also covered local ballot measures and the rules  
7       governing local ballot measures in each state. I was  
8       responsible for also doing external relations about ballot  
9       measures. So any time there was a media journalist request  
10      or an interview or someone wanted an article written, I was  
11      the one who was directed to field that request, if it was  
12      related to direct democracy.

13       **Q**      In that role, just to be clear, did you research  
14      ballot measures?

15       **A**      Yes, yes. I spent a lot of my time researching,  
16      researching the laws governing ballot measures and ballot  
17      measures in the current cycle so I could guarantee the  
18      accuracy of our content on the site.

19       **Q**      Now, did your research include the laws in all 50  
20      states about ballot initiatives?

21       **A**      Yes, yes. I was responsible for researching and  
22      compiling a series of encyclopedic articles about the laws  
23      governing ballot measures in each state broken down by type,  
24      by origin, by what type of law they were amending. So yes,  
25      yes, every, every state was within my purview.

1       **Q**       Now, have you published on the subject of ballot  
2 measures?

3       **A**       Yeah. I coauthored -- excuse me. I coauthored an op  
4 ed in the *New York Times* about ballot measures. I've also  
5 published hundreds of news articles on Ballotpedia dot org.  
6 I'm responsible for a large amount of the content, the  
7 encyclopedic content, on Ballotpedia dot org. I've been  
8 cited in many media articles and been on various TV programs  
9 and radio programs.

10      **Q**       Now, what are ballot measures?

11      **A**       A ballot measure I would describe it as any, any  
12 policy change, so any, any law change that's decided  
13 directly by voters as opposed to by their elected  
14 representatives.

15      **Q**       What are the different types of ballot measures?

16      **A**       So I think the best way to break that down is -- at  
17 least initially, is by origin. So I would first say that  
18 there are -- there are ballot measures that are put on the  
19 ballot by elected representatives, so I would refer to those  
20 as referrals. They can be put on the ballot by the  
21 legislature or by a constitutional convention, or in one  
22 state, by a commission.

23                  And then on the other side, there are ballot measures  
24 that appear on the ballot because of a successful signature  
25 petition campaign. So those are citizen initiated in the

1       sense that they appear on the ballot because the sufficient  
2       number of citizens signed a petition to put them on the  
3       ballot. So I would first divide ballot measures in that  
4       way.

5           And then on -- for citizen initiated measures, I would  
6       further divide those up into ballot initiatives and veto  
7       referendums. I would say that that's kind of a key  
8       differentiating difference on that side of things.

9       **Q**       Now, will you please describe for us the difference  
10      between a ballot initiative and a ballot referendum?

11      **A**       Yes. So I would say a ballot initiative is a proposal  
12      for a new change to either statute or the Constitution, so  
13      it's the content within the ballot initiative is -- is from  
14      the sponsors. It's determined by the sponsors. While a  
15      veto referendum, which is also called a people's veto or a  
16      popular referendum, it is a proposal that concerns a law  
17      recently passed by the legislature. So it's -- it doesn't  
18      propose anything new or take away anything determined by the  
19      sponsors. Rather, it's designed specifically to repeal a  
20      law that was recently passed by the legislature.

21      **Q**       How does a measure get on the ballot?

22      **A**       Are you referring to a citizen initiated measure?

23      **Q**       Yes.

24      **A**       So the process varies across the states, but in  
25      general, there is -- there are a couple of phases. You have

1 to submit the measure for some kind of approval either by  
2 the Secretary of State or Attorney General in many cases.  
3 And then the measure enters a signature-gathering phase  
4 where the measure can be circulated and citizens can sign  
5 their names onto the ballot initiative or veto referendum  
6 petition. There's usually a deadline involved with this.  
7 There's a timeline over which sponsors of that petition can  
8 circulate the measure. And then once that process is over,  
9 submitted for some kind of verification process generally,  
10 and if a sufficient number of signatures are verified, then,  
11 that measure is qualified for the ballot, barring any sort  
12 of legal challenges or -- or a court case, court ruling that  
13 blocks it from the ballot.

14 **Q** Now, generally speaking, how are those signatures  
15 gathered?

16 **A** For the most part, signatures are gathered by  
17 professional circulators. The people are paid to bring the  
18 petition around and try to collect signatures from citizens,  
19 from registered voters. There are maybe a handful every  
20 cycle that get on the ballot through volunteer-driven  
21 efforts, but those are usually in states with smaller  
22 signature requirements, South Dakota, North Dakota, Montana.  
23 A huge majority of measures that qualify for the ballot  
24 are -- they're driven by some kind of paid  
25 signature-gathering campaign and there are companies that do

1       that.

2       **Q**       And when you mentioned the paid signature-gathering  
3                   companies, just generally speaking, where does the funding  
4                   come from to pay those companies?

5       **A**       So funding would come from a sponsor of the petition  
6                   drive or multiple sponsors. So those are the political  
7                   donations, usually through some kind of ballot measure  
8                   committee, a political action committee that spends money on  
9                   those, on those signature drives. I would say most  
10                  frequently, the source of that money is located in a small  
11                  number of sponsors, of donors. You don't usually see a  
12                  crowd funded petition drive. Crowd funding usually comes in  
13                  after the measure is actually certified for the ballot. So  
14                  yeah, from a sponsor, from either a sponsoring individual or  
15                  a sponsoring organization --

16       **Q**       And is the --

17       **A**       -- through political contributions.

18       **Q**       Excuse me, I apologize for interrupting you.

19                   Is the identity of those sponsors usually known to the  
20                  people signing the petition?

21       **A**       There are certain laws around the country requiring  
22                  things like the largest donors to be listed on petitions,  
23                  but those are pretty rare and some have been overturned.  
24                  For the most part, that information is not available to the  
25                  signers, at least not readily available, and it's generally

1       not emphasized by the circulators, it's not. So I would say  
2       for the most part, no, for the most part, that information  
3       is not available to signers unless they dig very hard to  
4       find it.

5       **Q**       How would a potential signer know who is behind a  
6       petition-gathering effort?

7       **A**       I mean, they would -- you might, you might look at  
8       the -- you might look at the political contribution -- the  
9       reporting on the political contributions made by whatever,  
10      whatever PAC is sponsoring that measure. And you could --  
11      and those are available in some states, depending on their  
12      system, from the state's campaign finance reporting system.  
13      But even those could be from an organization that -- for  
14      which it would be very difficult to know where that  
15      organization's funding came from. So in many cases, it is  
16      almost impossible to determine who is backing the drive.

17       **Q**       Now, how does a -- excuse me. How does a ballot  
18      referendum work in Ohio specifically?

19       **A**       Yeah. So in Ohio, Ohio is one of the states where  
20      either for a ballot initiative or a veto referendum you need  
21      to submit a number of signatures with your application. So  
22      you would submit a thousand signatures with your application  
23      to start the petition drive. Then, that petition would --  
24      needs to include a summary of either the initiative or the  
25      referendum. So in the case of a referendum, it would be a

1 summary of the law that is being targeted for repeal. And  
2 that summary needs to be approved by the Attorney General  
3 and portions of that petition need to be approved by the  
4 Secretary of State.

5 Once those are approved, there is a deadline by which  
6 you have to collect a certain number of signatures. So in  
7 Ohio, that number is tied to the number of votes for  
8 governor in the last election, and it varies by type. For  
9 an initiative changing statute and a veto referendum, it  
10 amounts to 6 percent of the -- 6 percent of the number of  
11 votes last cast for governor, which is something like  
12 between 200 and 300,000, depending on the cycle. So for a  
13 veto referendum, you have 90 days from when the law is  
14 enrolled -- so after the governor signs it -- to collect  
15 those signatures. You can't start collecting the large  
16 number of the -- the bulk of those signatures until you get  
17 approval from the Attorney General for your -- for the  
18 accuracy of your petition summary.

19 And then, so then once you get that approval, you're  
20 free to circulate the petition, collect the hundreds of  
21 thousands of signatures. You must comply with requirements,  
22 such as a distribution requirement, which means you need to  
23 collect a certain number of signatures from half of the 88  
24 counties, so from 44 of 88 counties. You need to meet a  
25 certain threshold in those counties, and then you submit

1       those signatures for verification. And if a sufficient  
2       number are deemed valid, then, that measure qualifies for  
3       the ballot.

4       **Q**       You mentioned "verification." Who is responsible in  
5       Ohio for verifying the signatures?

6       **A**       The state election officials are responsible for --  
7       the Secretary of State's office is responsible for deeming a  
8       petition sufficient. There are ways to challenge  
9       signatures, but in some cases, the signatures are -- it's  
10      not required that every single signature be reviewed in  
11      Ohio.

12      **Q**       Now, for opponents of a ballot referendum, what are  
13      common tactics used to prevent the ballot referendum?

14      **A**       So I would break that up into two phases. So for  
15      opponents of a ballot initiative or a veto referendum, there  
16      are certain activities that are useful before the measure is  
17      certified for the ballot and then after. So were you  
18      referring to a particular phase or just --

19      **Q**       Both phases, please.

20      **A**       So after the measure is on the ballot and it's going  
21      to appear on the ballot, then, that really just really  
22      becomes a political campaign. The support and opposition  
23      sides are just using messaging campaigns and political ads  
24      and signs and sort of the ways in which you might advocate  
25      for a political position that you're probably familiar with.

1           Before the measure is certified for the ballot, there  
2 are I think different tactics that are maybe less  
3 well-known. So I would say for a majority of initiative and  
4 referendum efforts, opponents don't really do anything  
5 before the measure is certified because it's largely in  
6 their interest for the effort to not have any sort of  
7 notoriety, so not have any sort of attention. But there  
8 are, there are cases where, especially if opponents are  
9 confident that the sponsors have enough money and enough  
10 activity to qualify the measure for the ballot, if they're  
11 confident of that, then, there are certain activities that  
12 you can do to prevent that measure from appearing on the  
13 ballot.

14           One of those is to launch a lawsuit and try and  
15 either -- either overturn -- either block the measure from  
16 the ballot because of its content or for procedural reasons,  
17 so claim that the requirements were not met, that the  
18 petition was invalid, that a circulator maybe didn't meet  
19 the requirements for circulators, and knock signatures off  
20 of the petition that way. So lawsuits are quite common.

21           Another tactic would be to try and inhibit the progress  
22 of signature-gatherers. So just as a circulator would be  
23 trying to get registered voters to sign the petition, it's  
24 equally possible to try to dissuade voters from signing a  
25 petition. This can be through a messaging campaign, so it

1       would be through trying to put some messages out there that  
2       this is a petition that should not be signed for various  
3       reasons.

4           It can also be -- and this is common in the sense that  
5       it happens every cycle, there can also be efforts to block  
6       petition signers, so to actually find the places where  
7       circulators are collecting signatures and try to dissuade  
8       the people that those circulators are talking to from  
9       signing the petition or in any way inhibit the activity of  
10      the paid circulators or the volunteer circulators from  
11      gathering those signatures. And that's often referred to as  
12      petition blocking, and there's sort of lots of different  
13      tactics you can use for that, and that can, of course, be  
14      either a volunteer or a paid effort as well.

15           There's also then kind of a number of efforts that fall  
16      like under that definition of petition blocking which would  
17      just be to sort of dry up resources. So I remember a couple  
18      of times in the last six years where a competing effort has  
19      sort of either launched their own signature campaign so that  
20      they can hire up all of the petition-gatherers in that state  
21      and essentially make it much more expensive or much more  
22      difficult to find the manpower you need to qualify the  
23      measure for the ballot.

24           I've also -- I've also heard and seen instances of  
25      opponents even just sort of directly paying for activities

1       other than signature-gathering. So essentially, hiring,  
2       hiring the people who would be signature-gatherers to do  
3       other things.

4       **Q**       Now, for the opponents of a ballot referendum, what is  
5       the type of information that would be valuable to gather on  
6       the proponent's efforts to obtain signatures?

7       **A**       Well, it would be -- starting kind of from where I  
8       started in the previous question, with regard to lawsuits,  
9       almost any information could be valuable. So if you know,  
10      if you know something about circulators that might lead them  
11      to be disqualified, so if you have information about their  
12      residency or their criminal history, even if you can get a  
13      couple of circulators disqualified, then, you can knock all  
14      of their signatures off of that petition, so knowing  
15      information about circulators. Knowing where circulators  
16      are active is also valuable if you wanted to gather  
17      information for a lawsuit.

18                  There are certain activities that petitioners cannot  
19      do. They cannot lie. They must swear that they've actually  
20      witnessed every single signature. So if you can gather  
21      evidence that a certain number of circulators aren't  
22      following those rules by actually observing them, then, that  
23      could be a way, you could use that information in the  
24      lawsuit.

25                  In terms of the petition blocking, it would be

1 especially useful in a state where there's a distribution  
2 requirement, like Ohio where you need to -- you need to  
3 gather a certain threshold, not just in the entire state,  
4 but in certain counties throughout the state. If you know  
5 how many signatures the sponsoring group, for example, has  
6 gathered in a certain county and you know that they need  
7 that county to meet their requirement, then, you can target  
8 your petition-blocking efforts in a much more efficient way.  
9 So knowing information about how much progress the sponsors  
10 have made in gathering signatures, how close they are to  
11 meeting thresholds, and especially how close they are to  
12 meeting thresholds within the smaller sub jurisdictions that  
13 make up the distribution requirement, that is all  
14 information that would be very, very helpful in making your  
15 petition blocking effort more useful.

16 Then, in terms of messaging, I would say knowing the  
17 identity -- the identity of what you could say is the  
18 original sponsors of the measure, so not necessarily the  
19 political committee that was formed to fund the drive, but  
20 the people behind that political committee or the people  
21 behind the organization behind that political committee, if  
22 you have that information and that information sort of shows  
23 that the effort is anything but a grassroots, state-based,  
24 ground-up-type effort, it's easy to form messaging that  
25 deters signers with that type of information. So that would

1       be information about who, like I said, maybe the original  
2       funders are. Once again, it depends on who those funders  
3       actually are.

4           But it's -- frequently, a common tactic is to  
5       accurately or inaccurately paint an initiative drive as out  
6       of state, right, as something that's not an effort coming  
7       out of Ohio or out of Florida or out of California, but it's  
8       coming from some other national interest or from out of the  
9       state, that's a common messaging tactic before the measure  
10      is certified.

11     **Q**       Now, you had mentioned signature-gathering firms.  
12     Approximately, how many signature-gathering firms are there?

13     **A**       I don't know how many there are, unfortunately,  
14       because we track the measures that actually qualified for  
15       the ballot. So what I do know is that -- so there are  
16       hundreds, if not thousands, of initiatives that are filed  
17       with stated officials every year, and something like  
18       8 percent of those or less actually make the ballot. And a  
19       certain portion of those may hire companies but never  
20       actually qualify for the ballot.

21           So anyway, I'm not qualified to speak to the exact  
22       number, but in terms of the initiatives that voters actually  
23       see, there's a pretty small number of companies, I would say  
24       between 50 and 30 every cycle, and you keep seeing the same  
25       names over and over again that are hired to run the

1       signature drives for those initiatives that actually qualify  
2       for the ballot. So the successful petition drives are  
3       generally run by a small number of -- like I said, between  
4       15 and 30 companies that you kind of see repeat over and  
5       over again.

6       **Q**       Throughout your testimony, you've used the word  
7       "cycle." For those of us who aren't familiar, what does  
8       that refer to?

9       **A**       So I was using that phrase to refer to a two-year  
10      cycle, so an odd-numbered year and an even-numbered year. A  
11      huge majority of ballot measures, in general, but also  
12      citizen initiated measures, appear on the ballot in an  
13      even-numbered year because many states require that. Ohio  
14      is not one of those states. Ohio allows both odd-year and  
15      even-year measures. But yeah, since there are so few in an  
16      odd-numbered year, I often lump the measures for a two-year  
17      cycle into one in my mind, so that's what I mean by a cycle.

18                  MS. GAFFNEY-PAINTER: Your Honor, may I have a  
19      moment to confer?

20                  THE COURT: Yes.

21                  MS. GAFFNEY-PAINTER: No further questions. Thank  
22      you.

23                  THE COURT: Very well. The attorneys for the  
24      defendants have an opportunity to examine.

25                  Cross-examination on behalf of Mr. Householder, if any?

1                   MR. GLICKMAN: Thank you, Judge.

2                   THE COURT: Very well.

3                   MR. GLICKMAN: Good morning, Mr. Altic.

4                   THE WITNESS: Good morning.

5                   MR. GLICKMAN: I'm Rob Glickman. I'm one of the  
6 lawyers for Larry Householder in this case. I only have a  
7 couple of questions for you.

8                   **CROSS-EXAMINATION**

9                   **BY MR. GLICKMAN:**

10                  **Q**        Okay. So as far as you just said generally in these  
11 types of ballot referendums, only about 8 percent of them  
12 actually are successful to get on a ballot?

13                  **A**        Yeah. So I was -- that's a number speaking about the  
14 entire country. So I was remembering specifically the 2018,  
15 2020 and 2022 election years, and, yeah, between 600 and a  
16 thousand of these were filed with state officials. Now,  
17 that could be -- that could be, you know, ten families angry  
18 at a policy submitting an initiative to the officials with  
19 no chance of making the ballot, right. It's -- or it could  
20 be a well-funded group that runs into trouble and doesn't  
21 quite have enough funding or hits a lawsuit or something and  
22 doesn't make the ballot. But yeah, so out of those 600 to a  
23 thousand measures, every cycle, it's been in the, you know,  
24 50 to 70 range that actually make the ballot, so it works  
25 out to about 8 percent nationwide that actually qualify for

1           the ballot.

2       **Q**       And even if you do make the ballot, that's no  
3           guarantee that you'll win in the upcoming election, right?

4       **A**       Of course. That's up to the voters, yeah.

5       **Q**       And a number of these initiatives are funded by  
6           special interests; is that fair?

7       **A**       Yeah, I think it's fair. It's fair to say that a  
8           large number of initiative campaigns are funded by -- well,  
9           could you tell me what you mean by "special interests"?

10      **Q**       Sure. It's not a group of volunteer students who are  
11           interested in an issue, it's a well-funded campaign funded  
12           by wealthy companies, individuals or interest groups; is  
13           that fair?

14      **A**       Yeah, I would say lot of the ones that actually make  
15           the ballot are that way. A lot of the -- so yeah, most of  
16           the measures that make the ballot have funding for their  
17           signature drive.

18      **Q**       And, in fact, if there's a hotly contested law that is  
19           proposed in the General Assembly -- or in a state  
20           legislature, I'm sorry, I'll speak generally, and that  
21           proposal is opposed by a powerful special interest and  
22           supported by a powerful special interest, if the law passed,  
23           it is not out of the norm for the special interest who lost  
24           in the General Assembly to attempt to get that law changed  
25           with a ballot initiative?

1       **A**      I'm not sure I have like the statistics to speak to  
2      that, "out of the norm." Certainly, a common scenario is  
3      for these initiatives that do make the ballot and are  
4      controversial, say, is that there is -- that they are  
5      controversial in the legislature as well, and that there are  
6      many -- I'm sorry. Yeah, I'm not sure if that makes sense  
7      or not.

8       **Q**      Okay. Well, I'll take out the word "norm." Special  
9      interests that are opposed to legislation that passed can  
10     attempt a ballot initiative to eradicate the legislation  
11     that has gone into effect, true?

12      **A**      A ballot initiative, so they can do a veto referendum  
13     petition to overturn immediately. So a veto referendum  
14     would be for immediately passed legislation to overturn it  
15     and appeal it, and in many cases, to keep it from going into  
16     effect.

17      **Q**      In fact, in Ohio if you get on the ballot with an  
18     initiative, the law doesn't go into effect --

19      **A**      Yeah.

20      **Q**      -- until the election?

21      **A**      Yeah, so it's suspended until the election, so you can  
22     stop it from going into effect. You can use a ballot  
23     initiative effort years later to change the law. So you  
24     could also -- you could also use a ballot initiative to that  
25     effect by using it to try to repeal or change the law that

1 was passed many years ago, say.

2 Q And successful ballot initiatives generally need to be  
3 well-funded, especially in states like Ohio as opposed to  
4 North Dakota like you said earlier; is that correct?

5           **A**       Yeah. I think the average cost of getting an  
6 initiative on to the ballot or a veto referendum across the  
7 country was something like 2 million in 2020. It was  
8 actually 4 million in 2022, but inflation hit that  
9 company -- that industry hard. And then I think in 2018, it  
10 was like 1.3 million. But the real cost usually comes after  
11 the measure is on the ballot. Though, if it's a  
12 controversial issue, the cost of a campaign to try and get  
13 voters to side with you is generally many times more  
14 expensive than the drive itself, but either way, yeah, you  
15 need a lot of money.

16 Q But if the drive itself is opposed, that can be  
17 expensive as well, yes?

18       **A**       Yes, yeah, yeah. So like for a petition blocking or  
19                   lawsuits, all of the tactics I described to oppose the  
20                   signature drive are generally accomplished through funding  
21                   as well.

22 Q I think you testified that through petition blocking  
23 it was not abnormal -- I'm taking out -- strike that, Judge.

Opponents of a ballot initiative can go about hiring these signature firms to block the people who want the

1       ballot initiative from hiring them themselves, true?

2       **A**      What do you mean by "can"?

3       **Q**      It is -- they -- one of their strategies will be to  
4           hire those firms so no one else can?

5       **A**      I've seen that strategy used, yes.

6       **Q**      And you indicated that oftentimes one cannot see who  
7           is funding either the ballot initiative or the opposition to  
8           the ballot initiative easily?

9       **A**      Correct. Yeah. It's often difficult to ascertain  
10          what I would describe as maybe the original funders.

11      **Q**      Another avenue of blocking a ballot initiative or  
12          supporting a ballot initiative is a media campaign, true?

13      **A**      Yes, yeah. I think I testified that most commonly we  
14          see sort of the messaging or media side being used by the  
15          support before they get on the ballot just because often  
16          anonymity is a tactic for some of these efforts before the  
17          measure is actually on the ballot, but it is used, yes.

18      **Q**      But if the measure is very well-funded and is mounting  
19          its own media campaign, putting it out in the public light,  
20          one way of blocking it is to have a counter media campaign;  
21          is that fair?

22      **A**      Certainly.

23      **Q**      And these media campaigns add substantially to the  
24          expense of any referendum?

25      **A**      Yes.

1       **Q**      And the media campaign can include radio, yes?

2       **A**      Yes.

3       **Q**      TV?

4       **A**      Sure.

5       **Q**      Mailings, direct mailings to voters?

6       **A**      Yes.

7       **Q**      Okay. And the people even showing up where  
8                 signature-gatherers are attempting to get signatures and  
9                 trying to convince the people against signing, right?

10      **A**      Yeah, that can happen as well, yeah.

11      **Q**      In Ohio, as far as signature-gatherers, can felons  
12                 collect signatures?

13      **A**      I believe -- so it's -- I'm trying to remember Ohio's  
14                 law specifically.

15      **Q**      If you know, sir. I don't want you to guess.

16      **A**      Yeah. It's very common that there are laws against  
17                 certain types of felonies, so any kind of fraud or any kind  
18                 of related, like signature forgery, anything like that is  
19                 very frequently prohibited for circulators. Yeah, I don't  
20                 remember exactly if felonies are blanket prohibited for  
21                 Ohio.

22                 MR. GLICKMAN: Can I just have one moment, Judge?

23                 THE COURT: Yes.

24                 MR. GLICKMAN: I don't have anything further.

25                 Thank you.

1                   THE COURT: Very well.

2                   MR. SCHNEIDER: Judge, no questions of this  
3 witness.

4                   THE COURT: Thank you, sir.

5                   Is there any redirect?

6                   MS. GAFFNEY-PAINTER: No, Your Honor.

7                   THE COURT: You're free to go.

8                   THE WITNESS: All right.

9                   THE COURT: Thank you.

10                  (Witness left the stand.)

11                  THE COURT: Where do we stand from the government's  
12 perspective?

13                  MR. SINGER: Your Honor, the government calls  
14 Michael Roberson.

15                  THE COURT: Very well. We've gone to retrieve that  
16 witness. You may gather at the podium.

17                  Good morning, sir. If you would be willing to pause  
18 where you are for the oath to tell the truth.

19                  (Witness sworn.)

20                  THE COURT: Very well.

21                  (Witness took the stand.)

22                  THE COURT: I tell everybody the seat tips back,  
23 spirit of full disclosure.

24                  THE WITNESS: Thank you, Your Honor.

25                  THE COURT: Once you're seated and comfortable,

1 we're going to need you close to that fancy government  
2 microphone.

3 On behalf of the government, sir, you may approach and  
4 begin your examination.

5 MR. SINGER: Good morning.

6 THE WITNESS: Good morning.

## **MICHAEL ROBERSON**

8 of lawful age, Witness herein, was examined and testified as  
9 follows:

## **DIRECT EXAMINATION**

11 BY MR. SINGER:

12 Q Could you please state your name and spell it for the  
13 record?

14 | A Michael Roberson, R-O-B-E-R-S-O-N.

15 Q Mr. Roberson, where do you work?

16 | **A** Advanced Micro Targeting.

17 Q And what is Advanced Micro Targeting?

18       **A**       We are one of the largest voter contact firms in the  
19       country. We provide field outreach for political campaigns  
20       and ballot -- qualifying ballot initiatives.

21 Q And what is a qualifying ballot initiative, could you  
22 explain that, please?

23       **A**       To qualify a ballot initiative -- and there are  
24                  roughly a little over 20 states that allow it, citizen  
25                  initiated, and so any citizen can hire a company like

1 Advanced Micro Targeting and typically you qualify something  
2 for the ballot by collecting signatures.

3 **Q** Does Advanced Micro Targeting have a shorthand name  
4 that it goes by?

5 **A** AMT, yes.

6 **Q** And what is your role at AMT?

7 **A** I'm the CEO.

8 **Q** And what are your responsibilities as the CEO at AMT?

9 **A** Overall leadership and management of the company,  
10 business development. I'm also an attorney, so I'm  
11 responsible for legal compliance, making sure that we follow  
12 each state's laws as to how to qualify an initiative. I  
13 also draft contracts, all of the contracts for the company.

14 **Q** And how long have you been the CEO of AMT?

15 **A** Since December 2018.

16 **Q** And what was your job prior to working for AMT?

17 **A** Well, I was an attorney for a law firm. I was also an  
18 elected official. I was state Senator from 2010 to 2018,  
19 Senate Majority Leader, and then I was the Republican  
20 nominee for Lieutenant Governor in 2018, all in Nevada,  
21 which is where I live.

22 **Q** Now, do you recall whether AMT was involved in a  
23 signature collection effort in 2019 in Ohio?

24 **A** I do.

25 **Q** Can you describe what AMT's role was in that effort?

1       **A**      We were hired by Ohioans Against Corporate Bailouts, a  
2 committee, to qualify a referendum related to HB 6. And a  
3 referendum is basically an opportunity for voters to have a  
4 say over something that's been passed by the legislature and  
5 signed by the governor. And so we were hired in July of  
6 2019 to collect a minimum of approximately 265,000 valid  
7 signatures from registered voters in the state of Ohio to  
8 qualify the referendum. If it had qualified, the HB 6  
9 legislation would have gone to a vote of the people.

10      **Q**      And do you recall what HB 6 involved?

11      **A**      It was the billion-dollar bailout bill, which, you  
12 know, among other things --

13                  MR. BRADLEY: Objection, Your Honor.

14                  THE COURT: Basis?

15                  MR. BRADLEY: Characterization.

16                  THE COURT: You can cross-examine. You may  
17 proceed, Counsel. Overruled.

18                  THE WITNESS: My understanding is it provided a  
19 billion-dollar bailout to two -- to a nuclear energy company  
20 that owned two nuclear energy plants in the state, and it  
21 also raised the utility rates of every resident of the state  
22 of Ohio.

23      **Q**      Now, were you involved personally in the AMT's effort  
24 in Ohio in 2019?

25      **A**      I was.

1       **Q**      Can you describe how you were involved?

2       **A**      Well, initially, I negotiated the contract with the  
3                   committee who wanted to hire us to begin this process.  
4                   Then, I came to Ohio in July to oversee the first -- to put  
5                   a referendum on the ballot in Ohio, you first have to submit  
6                   language for the proposed referendum, which has to be  
7                   approved by the Attorney General. And along with -- in  
8                   order to submit that language, you have to go out and  
9                   collect a thousand initial signatures within about a  
10                  three-day period. And so I came into town in July to  
11                  oversee that process and worked with our client, Ohioans  
12                  for -- Against Corporate Bailouts, I believe from memory  
13                  that's the accurate name. And we turned in the petition  
14                  language and the signatures to the Attorney General's office  
15                  in late July. So that's my initial entry into the state  
16                  related to this process. I came back a few times, spent  
17                  extensive amounts of time here in August and September, but  
18                  that was my first entry into the state relating to this.

19       **Q**      And was AMT able to successfully gather that initial  
20                  1,000 signatures?

21       **A**      Yes.

22       **Q**      Can you describe what happened after the -- after that  
23                  thousand signatures was collected?

24       **A**      Yes. The Attorney General -- I believe it's ten  
25                  calendar days that the Attorney General has to either

1        approve or reject the language. The Attorney General  
2        rejected that language, and so my client had to redraft the  
3        language and resubmit, and we had to collect another  
4        thousand signatures along with that resubmittal. So that  
5        happened in August of 2019.

6        **Q**        Ultimately, was the summary -- petition summary  
7        approved by the Attorney General on the second try?

8        **A**        It was. I believe it was approved on August 30th  
9        because we started collecting signatures on August 31st.

10      **Q**        And can you describe just what a petition summary is?

11      **A**        It's a summary of the petition that people are  
12        signing, a summary of the fuller language.

13      **Q**        And --

14      **A**        It's an encapsulation of the proposed initiative.

15      **Q**        And can you describe how much time -- the full period  
16        of time that you had to collect the 265,000-some  
17        signatures --

18      **A**        Right.

19      **Q**        -- if the Attorney General would have approved the  
20        first time?

21      **A**        Well, the law provides 90 days from the day the  
22        governor signs the legislation, but given the two -- the  
23        process of going to the Attorney General's office -- and by  
24        the way, then it goes to the ballot board, which has to be  
25        approved, and then it gets sent back to the Attorney

1 General. So doing that twice cost us about 46 -- we had  
2 50 -- 54 days, so it cost us 36 days. So instead of  
3 90 days, we had 54 days from the time we were able to  
4 actually begin collecting signatures. We had from August  
5 31st to I believe October 23rd to collect those signatures.

6 **Q** And can you describe whether that impacted your  
7 ability to collect the total amount of signatures within the  
8 90-day period?

9 **A** It was a significant impediment. I mean, just common  
10 sense math. You hoped to have 90 days or close to 90 days  
11 as the law provides, but you actually only have 54 days, so  
12 it's a significant obstacle to overcome.

13 **Q** Under the contract that AMT had with Ohioans  
14 Against -- Ohioans Against Corporate Bailouts, what would  
15 happen if AMT failed to collect the requisite number of  
16 signatures by the end of the 90-day period?

17 **A** We would have to reimburse our client, I believe it  
18 was initially \$10.54 for every deficient signature, every  
19 signature that was short of what we were required to  
20 collect.

21 **Q** Now, can you explain whether AMT hired employees to  
22 help gather signatures?

23 **A** We did, lots of employees. All of our employees are  
24 W-2 employees. They're not independent contractors. Many  
25 of them we recruit nationally, and so while we certainly

1       hired a lot of residents of Ohio, we also hired people from  
2       around the country. And when we hire people from around the  
3       country, we fly them into the state, we house them in hotel  
4       rooms here, provide them rental cars, so there's a great  
5       expense involved in bringing people from around the country.  
6       And so if you -- I will tell you by the end of the project,  
7       there were -- and I don't want to get ahead of myself, but  
8       certainly from our company alone, hundreds of employees were  
9       hired and brought into the state or were already in the  
10      state.

11      **Q**       And how did you feel about AMT's ability to collect  
12      the requisite number of signatures at the time that AMT was  
13      hired for this project?

14      **A**       Well, we have collected literally -- we have qualified  
15      hundreds of initiatives over the years throughout the  
16      country. I don't remember a situation where we haven't  
17      succeeded prior to this. So even though we thought we were  
18      going to have closer to 90 days, it turns out we had  
19      54 days, we were still confident we could do it.

20      **Q**       And did -- did your feelings about AMT's ability to  
21      perform change at all during the course of the campaign?

22      **A**       It did. You know, again, 54 days is not a lot of  
23      time, and we quickly found out that we had opposition in the  
24      field, which made it much more difficult to succeed.

25      **Q**       How would you describe the opposition to your efforts?

1       **A**     Well, I've never seen anything like it, and I've  
2     worked in politics most of my adult life and been involved  
3     in many, many campaigns. It was like a war zone out there.  
4     Our employees were stalked. They were intimidated. They  
5     were harassed. Some of them were assaulted. It was quite  
6     something.

7       **Q**     Can you explain whether the opposition to your efforts  
8     impacted your ability to collect the requisite number of  
9     signatures?

10      **A**     It did. Very soon after we began collecting, probably  
11     in early September, we had a conversation with our client to  
12     try to determine how to deal with this environment we were  
13     in, and at that time, we mutually agreed that our role would  
14     change in that we would continue to do what we were doing,  
15     collecting signatures, but we would also bring in several  
16     other companies, several other sub vendors, to assist. We  
17     would kind of coordinate and supervise all of those firms.  
18     And so ultimately, we had probably -- approximately, ten  
19     different firms working underneath us and working with us to  
20     try to deal with what we were seeing out in the field.

21                  So could you ask the question again? Because I think I  
22     went --

23      **Q**     Can you just describe why is it that you determined  
24     that you needed to bring in sub vendors to help collect  
25     signatures?

1       **A**       Well, on a daily basis -- so we had offices in  
2 Columbus, Cincinnati, Dayton, Toledo, Cleveland, Akron, and  
3 what we would find is the opposition was everywhere, and in  
4 Columbus where we had our main hub, we had our field office  
5 there, but we also had our verification and processing  
6 office. Because what happens is when we collect signatures,  
7 they all get processed, they all get scanned, sent to our  
8 verification office in Dallas so that they can verify the  
9 signatures to validate them to make sure they're good  
10 signatures. So it's a pretty big process, and that major  
11 hub is in Columbus. And what we found is that the  
12 opposition would find out where our offices were, they would  
13 be waiting for our employees when they got there. They  
14 would be in cars, they would follow our employees to where  
15 they -- to their turf location. Turf is, you know, a way of  
16 saying where -- we have assignments for our canvass.

17                   MR. BRADLEY: Objection, Your Honor.

18                   THE COURT: Basis?

19                   MR. BRADLEY: It's all predicated on hearsay.

20                   THE COURT: Objection is overruled. Please  
21 proceed.

22                   THE WITNESS: So talking about turf, you know, I  
23 think it's important to know how we collect these  
24 signatures. We collect them in public places, high-traffic  
25 areas, grocery store parking lots, libraries, retail

1       outlets, anywhere where there's a good traffic, we can  
2       identify registered voters, that's where our canvassers go,  
3       but it's organized. It's not just send people out and they  
4       hunt and peck for a good location. We map out turf plans  
5       ahead of time on a daily basis. So when our employees come  
6       to the office, they have their assignments, typically in  
7       teams of four. They will go to particular turf location.

8           Well, the opposition would follow our employees, and  
9       after awhile, they knew where we would likely places we  
10      would be and they would be there as well. And they would  
11      create disturbances, you know, yelling, screaming at our  
12      canvassers, at voters, telling them not to sign the  
13      petition.

14           MR. BRADLEY: Objection, objection, Your Honor, to  
15      that last line of questioning.

16           THE COURT: Overruled.

17       **Q**      Can you explain whether the opposition to AMT's  
18      efforts impacted AMT's cost to manage this?

19       **A**      It did measurably in a number of ways. First of all,  
20      productivity goes down when you're being harassed and voters  
21      are being harassed. Productivity goes down, you can get  
22      fewer signatures, ultimately, you have to go find another  
23      location because of the disturbance. Employees quit because  
24      they did not want to work in that environment.

25           Although we pay our employees well, at a certain point,

1       it's not worth it every day to show up to a work site to be  
2 harassed, to be yelled at, to be screamed at, to be stalked.  
3 All of those things happened, and so our turnover was sky  
4 high. And then many of our employees were reached out to by  
5 the opposition, text messages, phone calls.

6                   MR. BRADLEY: Objection, Your Honor. It's not  
7 responsive to the question.

8                   THE COURT: Overruled.

9                   THE WITNESS: So my point there is we lost -- many  
10 of our employees were poached. They all have employment  
11 contracts, but they were poached, offered money and a plane  
12 ticket to leave the state or offered money and an  
13 opportunity to go work for the opposition.

14                  **Q**       And how --

15                  **A**       All of those things increased our costs.

16                  **Q**       Up to that point, had you ever experienced an  
17 opposition like the one you experienced in the HB 6  
18 campaign?

19                   MR. BRADLEY: Objection, relevance.

20                   THE COURT: Overruled. You can answer the  
21 question.

22                   THE WITNESS: Thank you, Your Honor.

23                   No, never. It was extraordinary.

24                  **Q**       Do you recall whether AMT hired an employee named  
25 Tyler Fehrman?

1       **A**     Yes, AMT did. I personally did.

2       **Q**     How was it that you came to hire Mr. Fehrman?

3       **A**     So we were looking for managers for the project. This  
4     was in late August -- I'm sorry, late July, early August,  
5     and I don't recall if I reached out to him or he reached out  
6     to me. But, you know, we had been talking to folks and  
7     different groups who, you know, might have some people  
8     available who were suited for this kind of position. So in  
9     any event, I met with Tyler Fehrman on August 1st. I met  
10    with him at a Panera in Worthington. I talked with him and  
11    offered him a position to run our Columbus hub, to be the  
12    project manager for the main hub in Columbus.

13      **Q**     What are the duties of a project manager?

14      **A**     Supervise the operation in that region of the state,  
15     manage petition circulators, manage the office, run the  
16     office, coordinate with me and others in management on a  
17     daily basis, basically running that portion of the project,  
18     the Columbus region, which was a very important region.

19      **Q**     Can you describe whether the project manager in the  
20     Columbus region was important to AMT's efforts?

21      **A**     Yes. It was the most important region because we also  
22     had our verification field office there. The Form 15  
23     process, which is a registration form that everyone who's  
24     involved in the effort has to complete and then that has to  
25     be delivered to the Secretary of State's office before

1       someone can even work on the project, a lot -- all of that  
2       runs through Columbus. So Tyler was also involved in that,  
3       assisting me in that process. He also worked with the  
4       client, communicating with the client, who was also based in  
5       Columbus. And so, you know, it was a very important role.

6       **Q**       Can you describe whether AMT took any steps to protect  
7       the signatures that it collected?

8       **A**       Yes. As I said, we had an office in Columbus, in  
9       Worthington, dedicated just for processing and storage of  
10      the signatures. At a certain point, we had to get security,  
11      around-the-clock security, for that building and that  
12      office.

13       **Q**       Now, did you publish AMT's collection of signatures in  
14      realtime?

15       **A**       No.

16       **Q**       And why not?

17       **A**       We wouldn't want anyone outside of AMT management to  
18      have that information. Canvassers don't even have that  
19      information. When you're trying to qualify something which  
20      involves collecting signatures and you've got this  
21      opposition out there that's trying to stop you, we wouldn't  
22      want that information to get out to the opposition.

23       **Q**       So did you -- did you ever publicly disclose the  
24      realtime number of signatures collected by AMT as of  
25      September 6th, 2019?

1       **A**      No.

2       **Q**      Did you ever publicly disclose the realtime number of  
3                   signatures collected by AMT as of September 10th, 2019?

4       **A**      No.

5       **Q**      Did you ever publicly disclose the realtime number of  
6                   signatures collected by AMT during any time in the month of  
7                   September?

8       **A**      No.

9       **Q**      And why, why wouldn't you just publish the  
10                  information, if it was -- were the signatures ultimately  
11                  going to be -- the total number of signatures collected  
12                  ultimately going to be published?

13      **A**      Yes, at the end of the petition campaign, certainly,  
14                  we have to turn in the total number of signatures, yes.

15      **Q**      Would you -- would there ever be a time where you  
16                  would publish the signatures you collect as you collect them  
17                  in realtime?

18      **A**      No. Some states, you do turn in signatures  
19                  progressively along the way, but not in Ohio, and in fact,  
20                  most states, you don't until the very end.

21      **Q**      And why wouldn't you publish the information in  
22                  realtime as the signatures are collected?

23      **A**      Because ballot initiative campaigns, like any kind of  
24                  political campaigns, typically have supporters and  
25                  opponents, they can be contentious; in this case, more so

1 than I've ever seen. You don't want your adversary to know  
2 the progress you're making or aren't making. You don't want  
3 them to know where you're going every day to collect those  
4 signatures. You certainly don't want them to know how many  
5 signatures you have. It could affect how they try to  
6 interfere with the campaign. It's just not -- I mean, it's  
7 the last thing they would ever want, is for realtime numbers  
8 to become public.

9       **Q**      Now, during the course of this campaign, were you  
10 aware of AMT employees simply stopped working without  
11 providing notice during the middle of the effort?

12       **A**      Yes.

13       **Q**      And can you describe that?

14       **A**      We did. We lost employees at a rate we had never lost  
15 employees on a project. They would just disappear, and in  
16 some cases, we would discover after the fact they were  
17 actually working for the other side.

18       **Q**      And I think you mentioned that -- well, I'll ask you  
19 again, can you explain whether AMT had to amend its contract  
20 during the course of this campaign?

21       **A**      We amended it on three separate occasions.

22       **Q**      And as part of the amendment, I think you testified  
23 that you hired vendors to come in to help collect  
24 signatures; is that right?

25       **A**      Yes. So the initial contract we signed was in late

1       July. We amended it in mid August to reflect the fact that  
2 we were going to have to go out again a second time to get a  
3 second round of a thousand signatures. And, but then we  
4 amended it two additional times, once in September and once  
5 in October. And the main reason for those amendments were  
6 to reflect the fact that we were bringing in -- first, it  
7 was four sub vendors, and then the final contract it was  
8 seven sub vendors, and we may have even brought in more  
9 after that, but we brought in seven sub vendors and we paid  
10 them directly. So the price of our contract had to go up to  
11 allow us to pay these sub vendors to assist in the effort.

12       **Q**       And are you aware of whether any of the individuals  
13 hired through the sub vendors ended up -- stopped coming to  
14 work and stopped collecting signatures for your effort?

15       **A**       There was one company in particular that literally  
16 left in the middle of the night, took the petitions with  
17 them to Michigan, and it was quite a challenge to recover  
18 those.

19       **Q**       Now, can you explain what happened with AMT's efforts?

20       **A**       Well, ultimately, we failed to qualify the referendum.

21       **Q**       And what does that mean, you "failed to qualify"?

22       **A**       Well, like I said, I don't recall us ever failing  
23 previously. Your reputation in this business or any  
24 business is everything. You know, we believe -- we know  
25 we're one of the largest companies in the country, we

1 believe we're the best, and we believe our track record  
2 proves that out, but this was not a success. And so  
3 reputationally, you know, that's a problem.

4 **Q** So ultimately, were you able to collect the number of  
5 signatures in the requisite time period?

6 **A** We were not.

7 **Q** And can you explain whether it would have been better  
8 for business if you would have successfully collected the  
9 number of signatures within the 90-day period?

10 MR. BRADLEY: Objection, Your Honor. Relevance.

11 THE COURT: Not really convinced that that's  
12 relevant. The objection is sustained.

13 MR. SINGER: May we approach at sidebar?

14 THE COURT: Yes.

15 **SIDE BAR CONFERENCE.**

16 MR. SINGER: Your Honor, this goes directly to one  
17 of the elements for private services fraud, whether it was  
18 reasonably likely that this company would have suffered  
19 economic harm as a result of certain actions taken, and I  
20 think this question goes directly to that element.

21 THE COURT: And the response, Mr. Bradley?

22 MR. BRADLEY: Your Honor, ultimately, we don't feel  
23 like it's relevant whether this company suffered any  
24 reputational or financial harm to the question of whether  
25 there's been a services fraud.

1                   THE COURT: Very well. It goes directly to an  
2 element, I wasn't aware of it. The objection is overruled,  
3 and you may proceed.

4                   MR. LONG: Your Honor, just for the record, we  
5 would join the objection, understanding that it's been  
6 overruled.

7 **SIDE BAR CONCLUDED.**

8                   THE COURT: You may proceed.

9                   MR. SINGER: Thank you, Your Honor.

10                  **Q**       Mr. Roberson, can you explain whether it would have  
11                   been better for AMT's business if it would have successfully  
12                   collected the number of signatures it was hired to collect?

13                  **A**       It would have been better.

14                  **Q**       And can you explain why?

15                  **A**       Well, success breeds more success, and, obviously, as  
16                   I mentioned previously, reputation is important. Having a  
17                   track record of success certainly helps when you're trying  
18                   to develop new business and trying to get hired on new  
19                   projects. I think that's common sense.

20                  **Q**       And the converse of that failing to be able to perform  
21                   under the contract, can you explain whether or not that  
22                   would have been better or worse for business?

23                  **A**       Well, worse. You know, a lot of firms fail in this  
24                   business, but we don't, very rarely, and so, yeah, it stung.  
25                   It was -- this project was hell on everyone involved in it

1 because of the opposition and what they did. And certainly  
2 failing to qualify, it was costly in many ways to us. It  
3 was costly to our client. It was a bad result. None of us  
4 were happy about it.

5 MR. SINGER: No further questions, Your Honor.

6 THE COURT: Very well. The attorneys for the  
7 defense have an opportunity to inquire. On behalf of  
8 Mr. Householder?

9 MR. BRADLEY: Thank you. Judge, may I proceed?

10 THE COURT: Yes. Thank you.

11 MR. BRADLEY: I'll say good afternoon, Mr.  
12 Roberson.

13 THE WITNESS: Good afternoon.

14 **CROSS-EXAMINATION**

15 **BY MR. BRADLEY:**

16 **Q** So ultimately, there is a 90-day window in which you  
17 can collect the requisite number of signatures, correct?

18 **A** Correct.

19 **Q** But in this instance, that 90-day window got shrunk  
20 down to 54 days, if I recall your testimony correctly,  
21 right?

22 **A** I believe, yes.

23 **Q** And that was shrunk down because there was delays in  
24 getting the appropriate petition summary approved by the  
25 Attorney General?

1       **A**     Correct.

2       **Q**     And ultimately, in that 54-day window of time, you  
3           hire -- your company hires a number of individuals from  
4           around the country and I assume Ohio as well to come to Ohio  
5           and essentially fan out across the state and attempt to  
6           collect valid signatures in support of the referendum  
7           effort, right?

8       **A**     Correct.

9       **Q**     And if I'm hearing you correctly, the opposition to  
10          the referendum effort took steps to interfere with that?

11      **A**     Correct.

12      **Q**     And as a result, there was some attrition in your  
13          staff of signature collectors, right?

14      **A**     Correct.

15      **Q**     And then ultimately, you had to hire -- I think you  
16          described them as sub vendors, in other words, other  
17          companies to bring in other manpower, correct?

18      **A**     Yes.

19      **Q**     And those sub vendors were brought in pretty late in  
20          the game, so to speak, in other words, you know, with only  
21          30 days or so left in that either 90- or 54-day window,  
22          however you see it?

23      **A**     30 to 45 days, yes.

24      **Q**     And ultimately, in large part because there was such a  
25          short window of time, 54 days, to collect some 265,000 valid

1                   signatures, you were unsuccessful?

2         **A**       That's correct.

3                   MR. BRADLEY: Could I have a moment, please?

4                   THE COURT: Yes.

5                   (Pause.)

6         **Q**       Now, ultimately, your client was Ohioans Against  
7                   Corporate Bailouts?

8         **A**       Yes.

9         **Q**       And who specifically hired you, what individual?

10       **A**       Brandon Lynaugh.

11       **Q**       And do you know who funded Ohioans Against Corporate  
12                   Bailouts?

13       **A**       I do not know.

14       **Q**       You have no idea?

15       **A**       I have no personal knowledge of who funded it. In  
16                   many cases, we run petitions, we don't have a relationship  
17                   with the funders.

18       **Q**       And how much money was AMT paid for this effort?

19       **A**       The initial contract was for 2.8 million.

20       **Q**       And I think you indicated that it was amended, was it,  
21                   three times?

22       **A**       Yeah, three times. I think the total amount was over  
23                   8 million total, but, again, much of that had to go to other  
24                   companies. We were -- we were the conduit for those  
25                   payments. It would come to us and then we would pay the sub

1       vendors.

2       **Q**       Sure. And you've got to pay all of the signature  
3            collectors, there's expenses?

4       **A**       Oh, absolutely.

5       **Q**       Of course, right. But \$8 million?

6       **A**       Yeah.

7       **Q**       And in the end, I think you indicated that you had to  
8            refund per the contract, I think it was, \$10 or so a  
9            signature that you fell short?

10      **A**       That was the original contract. In the process of  
11           negotiating amendments -- again, we did three amendments --  
12           we negotiated that out because the client understood how  
13           difficult this was. You know, the client wanted us to keep  
14           going, the client wanted us to hire these additional sub  
15           vendors. We were not going to -- we would have been in a  
16           position where we would have lost a tremendous amount of  
17           money if this did not qualify, and so we negotiated that out  
18           of the contracts, so we did not --

19      **Q**       So in the end, you didn't have to return any of the  
20           money?

21      **A**       We did not.

22           MR. BRADLEY: Okay. I have no further questions of  
23           Mr. Roberson.

24           THE COURT: Thank you. On behalf of Mr. Borges?

25           MR. SCHNEIDER: Yes. Thank you, Your Honor.

1                   THE COURT: Yes.

2                   MR. SCHNEIDER: Good afternoon.

3                   THE WITNESS: Good afternoon.

4                   **CROSS-EXAMINATION**

5                   **BY MR. SCHNEIDER:**

6       **Q**       So when you refer to "the client," "the client" is  
7                   who, AMT's client?

8       **A**       Ohioans Against Corporate Bailouts.

9       **Q**       Right. And --

10      **A**       It's a political committee.

11      **Q**       Right. And you've served in the state Senate and ran  
12                   for Lieutenant Governor in Nevada, correct?

13      **A**       Correct.

14      **Q**       And you've referred to "the client" as Ohioans Against  
15                   Corporate Bailouts, correct?

16      **A**       That was the client.

17      **Q**       And you have no idea who funded that effort?

18      **A**       I don't have direct knowledge.

19      **Q**       Do you have indirect knowledge?

20      **A**       There were many groups who were supportive of our  
21                   efforts. I believe the natural gas industry, obviously, had  
22                   an issue with a competitor getting a bailout. There were  
23                   environmental groups who cared about this issue because I  
24                   believe there were changes in the law that affected  
25                   environmental protections. There were consumer rights

1       advocates who were concerned about the rate hikes. So there  
2       were many allies involved in this, but I never had any  
3       direct contact with the funders. Typically, in our role, we  
4       do not. We work with the committee.

5       **Q**       All right. So you worked with the committee that was  
6       trying to referendum House Bill 6 or the legislation that  
7       was passed. You don't get into the weeds on funding, but  
8       you really do have an idea of what special groups funded the  
9       referendum effort, you've just named them, right?

10           MR. SINGER: Your Honor, asked and answered.

11           THE COURT: I think he has answered your question.

12           MR. SCHNEIDER: Okay.

13       **Q**       Are you aware, Mr. Roberson, under the Ohio  
14       Constitution, can you referendum a tax?

15       **A**       I am not aware of that.

16       **Q**       Okay. And you've indicated turf, locations, where  
17       you're sending your signature gatherers, but it's pretty  
18       common you're going to go to libraries and Walmarts and  
19       assembly areas in many instances, correct?

20       **A**       Yes.

21       **Q**       Okay. I mean, and we heard from a witness earlier  
22       today that blockers is a relatively common effort employed  
23       by oppositions of referendums, correct?

24           THE COURT: Excuse me, is there an objection?

25           MR. SINGER: I think this witness can't testify

1 about what another witness testified about.

2 THE COURT: I agree with that and sustain, but you  
3 can take another run at it.

4 **Q** Okay. Blockers are not uncommon in ballot initiatives  
5 to be employed by the opposition, correct, in your  
6 experience?

7 **A** Not uncommon, no.

8 **Q** All right. And signature-gathering firms, sitting one  
9 out may be rare, but that's not unheard of either in your  
10 experience, correct?

11 **A** "Sitting one out," what do you mean?

12 **Q** Sitting an initiative out.

13 **A** I guess I don't understand what you mean by that.  
14 Could you rephrase that?

15 **Q** Signature-gathering firms that decline to get involved  
16 and are going to sit a particular ballot initiative or  
17 ballot measure out, is that common -- or let me ask you  
18 this, is it uncommon?

19 **A** So most companies in the industry want to be hired to  
20 do work. If they don't do work, it's because they weren't  
21 hired or they took a buyout, which is also common in the  
22 industry.

23 **Q** Common in the industry, okay.

24 **A** But, again, you're talking about companies, not  
25 individual canvassers, right?

1       **Q**      Right.

2       **A**      I think there's a difference there.

3       **Q**      Well, I'm talking about companies right now.

4       **A**      Okay.

5       **Q**      Okay. And do you have -- I think -- I don't know if  
6           Mr. Bradley asked you or whether Mr. Singer asked you, but  
7           how much money was spent roughly for the proponents of the  
8           referendum?

9       **A**      How much did the committee spend?

10      **Q**      Yeah, if you know.

11      **A**      Well, I would guess they spent at least \$8 million,  
12           perhaps more.

13      **Q**      Okay. And resubmitting language, summary language, to  
14           certify a petition such as a referendum or other ballot  
15           measure, having to resubmit it isn't uncommon either in your  
16           experience, correct?

17      **A**      Agree.

18      **Q**      And this is the first time AMT failed to get  
19           signatures?

20      **A**      To my recollection, yes.

21      **Q**      What about since?

22      **A**      There's been only one other time, and that was in  
23           Florida and that was similar blocking effort by some of the  
24           same folks who blocked this effort.

25      **Q**      Okay.

1       **A**       But I will also say for the record, we qualified more  
2                  state-wide initiatives than any company in the country last  
3                  year.

4           **Q**       Okay. Fair enough. So twice now, though, AMT has  
5           failed to gather enough signatures, if you count Florida,  
6           correct?

7       **A**       Out of hundreds, twice, yeah. It's a pretty good  
8       record.

9       Q       I think you indicated, though -- Mr. Bradley, one of  
10      his questions -- that your success rate is much higher than  
11      some of our competitors; is that right?

12      **A**      I believe it's the highest.

13       **Q**       Okay. And I think you indicated -- you correct me if  
14           I'm wrong, but you indicated there are some firms out there  
15           that have a pretty poor success rate?

16 | A Yes.

17 MR. SCHNEIDER: Okay. Thank you. No further  
18 questions, Your Honor.

19 THE COURT: Very well. Redirect, if any?

20 MR. SINGER: Very, very brief, Your Honor.

## **REDIRECT EXAMINATION**

22 BY MR. SINGER:

23 Q Just so we're clear, can you describe the difference  
24 between buying out a company to not work on a project and  
25 buying out employees who are hired to gather signatures?

1       **A**       Yeah. So what happens on occasion is when there is a  
2 contentious issue with two sides who are well-funded, the  
3 opposition will call, reach out to companies to pay them to  
4 not engage on a project. We were -- that attempt was made  
5 to us by Neil Clark before we ever took on the project, we  
6 were offered money to not come to Ohio. We rejected that.  
7 So yes, that does happen.

8                  That is different than you have employees under  
9 contract on a job site in the state of Ohio, and they are  
10 called and texted by the opposition with offers for money  
11 and plane tickets to leave immediately, to leave the state  
12 of Ohio or to take thousands of dollars and come work for  
13 the opposition. So those are two different scenarios.

14                MR. SINGER: Nothing further, Your Honor.

15                THE COURT: Very well. Recross, if any?

16                MR. BRADLEY: No questions.

17                MR. SCHNEIDER: Nothing, Your Honor.

18                THE COURT: Very well. Sir, you have survived.  
19 You are free to go.

20                THE WITNESS: Thank you, Your Honor.

21                THE COURT: Very well.

22                (Witness left the stand.)

23                THE COURT: It's time for our lunch break. It's  
24 12:15. We'll take an hour-and-a-half for lunch. Actually,  
25 however many minutes it is. We're going to try to get you

1 at 1:30. You hope you have a decent lunch. I want you to  
2 take a break, put this out of your mind. Don't discuss it  
3 among yourselves or with anyone else. No independent  
4 research. No checking out the media. And continue to keep  
5 an open mind. We'll rise for you as you leave for lunch.

6 THE DEPUTY: All rise for the jury.

7 (Jury exited the courtroom at 12:14 p.m.)

8 THE COURT: Jury has left the room. As always,  
9 we'll wait until we have been advised that the floor is  
10 cleared, and at that time, we'll take our lunch break until  
11 1:30.

12 All clear, we're in recess until 1:30.

13 THE DEPUTY: This court is in recess until 1:30.

14 (Recess taken from 12:15 p.m. to 1:30 p.m.)

15 THE DEPUTY: All rise. This court is in session  
16 pursuant to the recess.

17 THE COURT: Thank you. Please be seated. We're  
18 back from the lunch break. Are we ready for the jury from  
19 the government's perspective?

20 MR. SINGER: Yes, Your Honor.

21 THE COURT: Mr. Householder's?

22 MR. OLESKI: Yes, Judge.

23 THE COURT: And Mr. Borges'?

24 MR. SCHNEIDER: Yes, Your Honor.

25 THE COURT: Let's call for the jury, please.

1 (Pause.)

2 THE DEPUTY: All rise for the jury.

3 (Jury entered the courtroom at 1:33 p.m.)

4 THE COURT: You may all be seated. Thank you. 14  
5 Members of the Jury are back. We've had a good lunch and  
6 we're going to proceed with the taking of testimony. Who  
7 does the government call at this time?

8 MS. GAFFNEY-PAINTER: The government calls Douglas  
9 Gray.

10 THE COURT: Very well. If you would be willing to  
11 follow Ms. Santoro, sir, and as you approach, if you would  
12 pause, raise your right hand for the oath to tell the truth.

13 (Witness sworn and took the stand.)

14 THE COURT: As I tell everybody, that seat tips  
15 back, in spirit of full disclosure.

16 THE WITNESS: Okay.

17 THE COURT: Once you're comfortable, we'll need you  
18 close to the microphone, you need to pull it close to  
19 yourself.

20 And the government may inquire. Mr. Singer, you can  
21 approach the podium and proceed when you're ready.

22 MR. SINGER: Thank you, Your Honor.

23 THE COURT: Very well.

24 MR. SINGER: Good afternoon.

25 THE WITNESS: Good afternoon.

1

**DOUG GRAY**

2 of lawful age, Witness herein, was examined and testified as  
3 follows:

4 **DIRECT EXAMINATION**

5 **BY MR. SINGER:**

6 **Q** Can you please state your name and spell it for the  
7 court reporter?

8 **A** Doug Gray, D-O-U-G, G-R-A-Y.

9 **Q** Mr. Gray, where do you work?

10 **A** I work -- I have a consulting firm, Doug Gray &  
11 Associates, and reside in Kansas City, but work for myself.

12 **Q** And what type of work do you do with your company?

13 **A** I manage or consult on various types of campaigns,  
14 from candidate campaigns to issues that are going before  
15 voters for and against, sometimes large canvas operations,  
16 door-to-door canvas operations advocating for or against  
17 something, and sometimes manage signature campaigns.

18 **Q** How long have you been doing this type of work?

19 **A** About 30 years.

20 **Q** And how many signature-gathering campaigns have you  
21 worked on?

22 **A** Signatures, probably ten, eight to ten.

23 **Q** Do you recall whether you ever worked for a company  
24 called Advanced Micro Targeting?

25 **A** Yes, I've worked with Advanced Micro Targeting, yes.

1       **Q**       And have you just describe the experiences that you've  
2       had working for Advanced Micro Targeting.

3       **A**       Sure. I was working for a campaign in Arizona and  
4       actually hired them to be the signature collection firm to  
5       put an issue on the ballot in Arizona and worked really well  
6       together. And then in 2019, was asked if I would be  
7       interested in coming in and managing the day-to-day  
8       signature operation and did that. And then one other  
9       project here in Ohio right before COVID hit.

10      **Q**       What is Advanced Micro Targeting?

11      **A**       They are a signature-collection firm. They have a  
12       staff and all of the infrastructure so that they go in and  
13       collect signatures and process those signatures and present  
14       them to the entity that they need to present those to.  
15       There's a lot of prep work.

16      **Q**       And do you recognize Advanced Micro Targeting by going  
17       by any sort of shorthand?

18      **A**       AMT.

19      **Q**       So if I reference "AMT," you'll understand I'm talking  
20       about Advanced --

21      **A**       Absolutely.

22      **Q**       You mentioned a project that you worked on with AMT in  
23       2019. Can you describe what you recall about that?

24      **A**       Yes. We were collecting signatures to put on the  
25       ballot a statewide initiative to repeal \$1.3 billion that

1       was given to nuclear and coal companies in Ohio.

2       **Q**      And what exactly were you hired to do?

3       **A**      I was hired to manage the day-to-day. We set up  
4                  offices in about every metropolitan area in the state to  
5                  start collecting signatures in those respective areas.

6       **Q**      And what was AMT trying to accomplish?

7       **A**      We were trying to collect enough signatures so that we  
8                  could qualify for the ballot.

9       **Q**      And can you describe the scope of AMT's operation in  
10                 Ohio?

11      **A**      Yes. I mentioned, we had offices here in Cincinnati,  
12                 Dayton, Youngstown, all over the place, Columbus. We hired  
13                 managers that worked in each of those field offices, and  
14                 then they would hire teams to go out and collect signatures  
15                 and then report those daily to us, and then every --  
16                 frequently, turn those in to us here in Columbus at our  
17                 processing office.

18      **Q**      And did -- can you explain whether or not you were a  
19                 manager of other employees working for AMT?

20      **A**      There was several people that were employees of AMT in  
21                 the state, and they -- we had people that ran the  
22                 processing, but I mostly oversaw the field offices and the  
23                 campaign offices.

24      **Q**      And which field or campaign offices did you oversee?

25      **A**      Well, I work out of Columbus. I think we had eight

1       offices.

2       **Q**       And were you an employee of AMT at the time?

3       **A**       I was not.

4       **Q**       Okay. Do you recall whether the individuals that you  
5       were managing were typically employees of AMT?

6       **A**       Yes, yes, AMT mostly had hired individuals directly.

7       **Q**       Do you recall an individual named Tyler Fehrman?

8       **A**       Oh, yeah. I know Tyler. Um-hmm.

9       **Q**       And can you describe what your relationship was with  
10      Mr. Fehrman?

11      **A**       Tyler was running our Columbus office. We worked  
12      together on a couple -- one other project since then, and he  
13      was one of our field managers, did a great job.

14      **Q**       Can you describe whether there was any opposition to  
15      your effort?

16      **A**       Yes, there was all kinds of opposition to the effort.  
17      It started with what we -- we call them trackers or they  
18      will show up oftentimes with an alternative petition. It's  
19      not usually an official petition like we had to file with  
20      the Secretary of State. But their goal is to convince the  
21      person walking to the library or whoever, wherever we're  
22      working, to not sign our petition, sign theirs, but their  
23      ultimate goal is to just have that person throw up their  
24      hands and say I don't know, I'm not signing either one.

25      **Q**       And were there any other activities used by the

1 opposition to attempt to prevent you from collecting enough  
2 signatures?

3       **A**       Yes. In addition to the trackers, which were many,  
4 and they would show up at our offices in the mornings and  
5 wait in vehicles and then follow people out to the field,  
6 and then we would see them in the evenings as well. We  
7 started having on daily morning check-ins with the team  
8 reporting that, you know, maybe they had 15 or 20 people or  
9 10 depending on where they were scheduled for that day, and  
10 they started to report that, hey, I only had three people  
11 show up and we've tried to reach these people and we can't  
12 find them. And so people were starting to leave, and we  
13 were -- it just started coming in from across the state  
14 that, hey, I only had this many people today, I don't know  
15 where everyone else is. If people were living in hotel  
16 rooms, sometimes they would go there and they would see that  
17 the hotel room had been abandoned and they were no longer  
18 there.

19       **Q**       And can you describe whether or not this impacted your  
20 efforts at all on behalf of AMT?

21       **A**       Yeah, tremendously. It impacted us to the point where  
22 you would get up the next day and wonder if anyone was left  
23 because so many people were getting offers to leave.

24       **Q**       Now, can you compare the effort that you were working  
25 on on behalf of AMT in 2019 with other signature-gathering

1           campaigns that you worked on?

2       **A**       Yeah. I mean, it is the one that when I visit with  
3           people that I work with that I always reference as I've  
4           never seen anything like it before and most of my colleagues  
5           the same way. The amount of opposition, there were a few  
6           instances where we had to --

7           MR. BRADLEY: Objection.

8           THE COURT: Basis?

9           MR. BRADLEY: Predicated on hearsay.

10          THE COURT: He's describing the issues he  
11          encountered and not offered for the truth. Please proceed.

12          THE WITNESS: I would hear from managers when they  
13          would report in that there had been people harassed in front  
14          of locations they were working. In a few instances, best of  
15          my recollection, police were called because one thing we  
16          train on is safety first, and to always, you know, exit,  
17          exit something that's not working for you. We started to  
18          just see more and more people not show. Had never, had  
19          never witnessed it before or since.

20          **Q**       Can you explain whether there was an attempt to buy  
21          you out?

22          **A**       Yes, there was.

23          MR. SINGER: May we please show the witness only  
24          what's been marked as Government's Exhibit 632?

25          THE COURT: Show it to the witness and the lawyers.

1                   MR. SINGER: And can you page through the document,  
2 please?

3                   **Q**       Do you recognize this document?

4                   **A**       Yes.

5                   **Q**       And what is it?

6                   **A**       It is my texts with Marcus back and forth, and then  
7 also a contract that he had sent to me offering money and a  
8 plane ticket out of the state of Ohio.

9                   **Q**       And how do you recognize it as such?

10                  **A**       This was filed with the campaign attorneys in an  
11 affidavit.

12                  **Q**       You notice there's black lines?

13                  **A**       Yes.

14                  **Q**       On page 1 and 2; do you see those black lines?

15                  **A**       Yes.

16                  **Q**       Is that information that was redacted out of the court  
17 filing in this separate proceeding that you described?

18                  **A**       No. It was -- I mean, it's redacted here, but it was  
19 not, was not then, no.

20                  **Q**       But that's what is blacked out?

21                  **A**       Exactly.

22                  **Q**       It's from court proceedings; is that right?

23                  **A**       Yes. It was describing phone conversations.

24                   MR. SINGER: Okay. At this time, Your Honor, we  
25 move to admit Government Exhibit 632 into evidence.

1                   THE COURT: Any objection?

2                   MR. OLESKI: No.

3                   MR. SCHNEIDER: No objection.

4                   THE COURT: It's admitted.

5                   MR. SINGER: May we please publish to the jury?

6                   THE COURT: You may publish it. Yes. They're  
7 working on it.

8                   MR. SINGER: May we publish?

9                   THE COURT: Yes.

10                  MR. SINGER: Thank you, Your Honor.

11                  **Q** Focussing on what's on the screen right now, what is  
12 this an image of?

13                  **A** Text messages with Marcus.

14                  **Q** And what do the light gray messages represent?

15                  **A** My texts.

16                  **Q** I'm sorry, the light gray messages.

17                  **A** Oh, I'm sorry, I'm sorry. Marcus' texts.

18                  **Q** And what do the blue messages represent?

19                  **A** Mine. I apologize.

20                  **Q** And can you describe the circumstances through which  
21 you received this?

22                  **A** I received a text out of the blue asking -- saying,  
23 hey, Doug, I have an opportunity for you, if you're  
24 interested, similar to what has been -- was reported to me  
25 by other people around the state.

1       **Q**      Can you read these messages?

2       **A**      Sure. Hey, Douglas, my name is Marcus and I'm with  
3      Ohioans For Energy Security. Are you currently in Ohio? If  
4      so, I might have an opportunity that would interest you.

5                  And I responded: Yes, I'm in Ohio. What opportunity?

6                  And then Marcus responded: I'd be happy to share in  
7      detail. Can I give you a call in just a few minutes?

8                  I responded: I guess so.

9                  And then Marcus responded: Great, I'll buzz in a  
10     little bit.

11       **Q**      Can you describe why you responded the way that you  
12     did to these messages?

13       **A**      Yes. We and our campaign attorneys were trying to  
14     figure out what was going on. We were -- as I had  
15     mentioned, people were starting to leave. We're hearing  
16     reports of offers that they were receiving because some  
17     people didn't take the offers and they would say, hey, I  
18     just was offered this amount of money. So we were trying to  
19     figure out what was going on, and we knew that the reason  
20     people were receiving texts and other communications was  
21     because they had all of our information from a form you have  
22     to file with the Secretary of State in Ohio, a Form 15. And  
23     so our attorneys were trying to --

24                  MR. BRADLEY: Objection.

25                  THE COURT: Sustained.

1       **Q**      Can you describe what a Form 15 is?

2       **A**      Yes. If you're going to collect a signature in the  
3                  state of Ohio, you must have that on file as a public  
4                  document with the Secretary of State's office which includes  
5                  your name, phone number, e-mail address, and your home  
6                  address.

7       **Q**      Now, were you actually interested in this offer from  
8                  Marcus?

9       **A**      No.

10      **Q**      Did you ultimately have a phone call with Marcus?

11      **A**      Yes.

12      **Q**      And can you explain the phone call?

13      **A**      Yes. We had two phone conversations. He called --  
14                 following this text exchange, he called to explain the  
15                 office in more detail and summarized it as signed contract,  
16                 will give you half the money upfront, which in my case was  
17                 \$2,500 was the offer, and a plane ticket to home or wherever  
18                 I wanted to go in the 48, and then once they saw that the  
19                 plane ticket had been used, they would wire the other offer.  
20                 And in his summation of it was basically hire you to leave  
21                 the state until the campaign -- signature collection is  
22                 over.

23      **Q**      Now, did you describe to Marcus whether or not you had  
24                 an employment contract or whether you were working as an  
25                 independent contractor?

1       **A**     Yes, he asked, yes.

2                   MR. SINGER: Can we turn to page 2 of this  
3 document, please?

4       **Q**     And would you mind reading this for the jury, please?

5       **A**     Sure. I texted Marcus: Marcus, can you send to me  
6 what I need to sign if I want to take you up on your  
7 opportunity?

8                   And then Marcus responded: No worries. Give me half  
9 hour or so to wrap up some things and I'll give a call. If  
10 I run longer, feel free to call me, looking forward to it.  
11 Looking forward to connecting soon.

12      **Q**     All right. Why did you send that top message at the  
13 top of this document?

14      **A**     We wanted to see the contract they were offering.

15      **Q**     Okay. So what happened next?

16      **A**     He called me and talked through the offer again and  
17 then at the conclusion of that call sent me the contract.

18      **Q**     So did you, in fact, receive the document referenced  
19 in this message?

20      **A**     Excuse me?

21      **Q**     Did you receive the document?

22      **A**     Yes.

23      **Q**     And what was it, what did you receive?

24      **A**     A contract.

25                   MR. SINGER: Can we please turn to page 3?

1       **Q**     And do you recognize this?

2       **A**     Yes.

3       **Q**     And what is it?

4       **A**     It is a contract.

5       **Q**     Okay. Would you mind reading the first three  
6       paragraphs at the top?

7       **A**     It says: Petition Agreement. This agreement is  
8       entered into by and between Ohioans For Energy Security, LLC  
9       an Ohio limited liability company, parentheses, Ohioans For  
10      Energy Security, and Douglas Gray, a Michigan -- I'm  
11      assuming, I'm not sure why Michigan -- sole proprietor.  
12      Whereas, Ohioans for Energy Security and Douglas Gray desire  
13      to enter into an agreement for Douglas Gray to assist the  
14      provision the service as stated in Section 2 to Ohioans For  
15      Energy Security. Now, therefore, in consideration of the  
16      mutual covenants and promises set forth herein, and for  
17      other good and valuable consideration, Ohioans For Energy  
18      Security and Douglas Gray, individually, a party,  
19      collectively, the parties, hereby agree as follows.

20       **Q**     Do you see in the second paragraph that you just read,  
21      there's a reference to provision of the service?

22       **A**     Yes.

23       **Q**     Do you recall that? Do you see that?

24       **A**     Yes.

25       **Q**     Focussing on paragraph 2 of this page titled

1       "Services"; do you see that?

2       **A**      Yes.

3       **Q**      Would you mind reading that paragraph as well, please?

4       **A**      Services: Douglas Gray will provide statewide ballot  
5           issue advice and expert consultation on Ohio statewide  
6           ballot measures and the associated petition circulation and  
7           signature collection matters related to the referendum of HB  
8           6 related issues which occurs within a 90-day period upon  
9           enactment, HB 6.

10      **Q**      Now, during your phone calls with Marcus, did he  
11           mention performing any services?

12      **A**      No.

13      **Q**      Did you sign this agreement?

14      **A**      No.

15      **Q**      And why not?

16      **A**      I was not interested. I was trying to figure out  
17           why what I was doing day-to-day was turned upside down.

18      **Q**      And there's a reference to "HB 6." Do you have an  
19           understanding of what HB 6 is a reference to?

20      **A**      Yes. HB 6 was the legislation that gave \$1.3 billion  
21           to coal and nuclear.

22      **Q**      And how did this relate to what you were attempting to  
23           accomplish?

24      **A**      We were trying to put forward to the voters a chance  
25           to repeal that.

1       **Q**       At that time were you familiar with what Ohioans For  
2              Energy Security was at that time?

3       **A**       Vaguely. I mean, that name, yes, um-hmm. I mean, I  
4              knew that they were opposition, but I didn't know much.

5       **Q**       Okay. Focussing on the last sentence on that page, it  
6              says: A retainer -- client will pay Douglas Gray a retainer  
7              in the amount of \$2,500. Was that the offer that was made  
8              by Marcus during your phone call?

9       **A**       Yes.

10             MR. SINGER: All right. Next page, please.

11       **Q**       And then focussing on the small paragraph B, first  
12              full paragraph at the top of the page, do you see that,  
13              starting \$50 per hour?

14       **A**       Yes.

15       **Q**       Can you just read that first sentence?

16       **A**       B, \$50 per hour for all time spent by Douglas Gray  
17              providing advice and consultation to Ohioans For Energy  
18              Security provided that such advice and consultation has been  
19              performed at client's written request.

20       **Q**       Now, was this \$50 per hour for advice and  
21              consultation, was that mentioned by Marcus in your phone  
22              call?

23       **A**       No.

24       **Q**       All right. Staying on the same page, the paragraph  
25              just below titled "Confidentiality"; do you see that?

1            A            Yes.

2       **Q**       And then on the second line under there, there's a  
3                  little A that references the identity of Gen Now; do you see  
4                  that?

5 | A Yes.

6           **Q**       Douglas Gray will not disclose, directly or  
7       indirectly, to any person not a party to this agreement any  
8       of the following, and it says "the identity of Gen Now"; do  
9       you see that?

10           **A**       I see that, yes.

11 Q Do you have any understanding about who Gen Now was at  
12 that time?

13           **A**           No, had no idea.

14 Q All right. Moving on to the next page, do you see a  
15 reference at the top of this agreement in small little Roman  
16 Numeral 2 at the very top?

17 A Yes.

18 Q It describes what happens in the event of a breach of  
19 an agreement; is that right?

20 | A Correct

21 Q Did you discuss with Marcus at all what would happen  
22 if you breached an agreement?

23 A No.

24 MR. SINGER: Can we move to the next page, please?

25        8        All right. Do you see the notice paragraph?

1       **A**     Yes.

2       **Q**     Little paragraph D, do you see that?

3       **A**     Yes.

4       **Q**     References all notices or demands must be given a  
5           certain way; is that right?

6       **A**     Correct, yes.

7       **Q**     And then can you read what it says, if notice is given  
8           to client, who the client is?

9       **A**     It says: If to client, Generation Now care of Jeff  
10          Longstreth, Columbus, Ohio, and then gives his e-mail  
11          address.

12       **Q**     Did you have any idea at that time who Generation Now  
13          was?

14       **A**     No.

15       **Q**     Do you have any idea if Generation Now had any sort of  
16          relationship with Ohioans For Energy Security?

17       **A**     No.

18       **Q**     Did you have any idea who Jeff Longstreth was?

19       **A**     No.

20                   MR. SINGER: All right. Can we pull up and do a  
21          side-by-side of Government's Exhibit 632-1 and Government's  
22          Exhibit 632-6?

23                   THE COURT: Yes.

24                   MR. SINGER: Thank you, Your Honor.

25                   Actually, I'm sorry, it's Exhibit 632-3 and 632-6.

1       **Q**       Now, focussing back on that first paragraph, who is  
2                  the contract being entered into between?

3       **A**       Ohioans For Energy Security.

4       **Q**       And then who is the notice being given to?

5       **A**       Generation Now, Jeff Longstreth.

6                  MR. SINGER: Okay. And can we do a side-by-side of  
7                  Government's Exhibit page 6 and Government's Exhibit page 8?

8       **Q**       Focussing on the exhibit on the right side of your  
9                  screen, what entity is referenced at the top of that, of  
10                 that document?

11      **A**       Ohioans For Energy Security.

12      **Q**       And who is the care of?

13      **A**       Care of Jeff Longstreth.

14      **Q**       And how does that compare to the client on page -- on  
15                 the document on the left-hand side of the screen?

16      **A**       On the left-hand side, it's Generation Now, Jeff  
17                 Longstreth.

18                  MR. SINGER: Your Honor, no further questions at  
19                 this time.

20                  THE COURT: Very well. Lawyers for the defense  
21                 have an opportunity to ask questions, if any. On behalf of  
22                 Mr. Householder?

23                  MR. BRADLEY: We have no questions of this witness,  
24                 Your Honor.

25                  THE COURT: Very well. On behalf of Mr. Borges?

1 MR. LONG: Yes, Your Honor, just briefly.

2 THE COURT: You can approach the podium.

3 MR. LONG: Thank you.

4 THE COURT: Very well.

5 MR. LONG: Good afternoon.

6 THE WITNESS: Afternoon.

7 **CROSS-EXAMINATION**

8 **BY MR. LONG:**

9 **Q** I just want to clarify, you were not an employee of  
10 AMT, right?

11 **A** Correct.

12 **Q** Okay. And so you did not have an employment agreement  
13 with AMT, right?

14 **A** Correct.

15 **Q** And so when you had your first phone call with Marcus,  
16 one of the first things he asked you was, do you have a  
17 contract with your employer, right?

18 **A** Correct.

19 **Q** And you said no?

20 **A** Correct.

21 **Q** Okay. And you knew that if you said yes, the  
22 conversation would end at that point, right?

23 **A** I had no idea.

24 **Q** Okay. But you told him no because you, in fact, did  
25 not have a contract with AMT?

1       **A**     Correct.

2       **Q**     Okay. And so you did not have any kind of a  
3                  nondisclosure agreement with AMT, right?

4       **A**     Correct.

5       **Q**     Okay. And then you had -- so you had a text message  
6                  conversation followed by a phone call, right?

7       **A**     Two phone calls.

8       **Q**     Two phone calls. And then a final text and then an  
9                  e-mail; did I get that timing right?

10      **A**     I'd have to go back and look, but I know the text  
11                  message that we saw and the two phone calls. I don't -- I  
12                  don't know about an e-mail. I don't know. I mean, I guess,  
13                  yeah, he e-mailed the contract, yeah.

14      **Q**     So after you had got the contract, you had cut off --  
15                  at that point you cut off communication with Marcus; is that  
16                  fair?

17      **A**     Yes.

18      **Q**     So Mr. Singer asked you about various provisions of  
19                  that contract, you know, paragraph 5 and paragraph 2,  
20                  whether those were ever discussed on the telephone calls.  
21                  You had cut off communications after you got the contract,  
22                  so fair to say that was there was never a further  
23                  opportunity to talk about the specifics of the contract you  
24                  received, correct?

25      **A**     He reached out a couple of times, but I never followed

1 up with him.

2 **Q** Yeah. You just declined to respond further, right?

3 **A** Correct.

4 MR. LONG: All right. No further questions. Thank  
5 you.

6 THE COURT: Very well. Is there any redirect from  
7 the government?

8 MR. SINGER: No, Your Honor.

9 THE COURT: Very well. Your testimony has been  
10 concluded and you will be free to go momentarily.

11 THE WITNESS: Okay.

12 THE COURT: Are you from Kansas City?

13 THE WITNESS: I am.

14 THE COURT: Do you have a football team there, a  
15 professional football team?

16 THE WITNESS: Well, I honestly can say I'm not a  
17 rabid fan, but, certainly, I'm a hometown fan.

18 THE COURT: Well, in that regard, you're free to  
19 go.

20 THE WITNESS: Thank you.

21 (Witness left the stand.)

22 THE COURT: Can I see the lawyers at sidebar  
23 briefly?

24 **SIDE BAR CONFERENCE.**

25 THE COURT: I just wanted to touch base with you

1       all about what we're doing now and how I explain it to the  
2       jury. Is it true that we are adjourning for the day from  
3       the government's perspective?

4                    MR. SINGER: Yes, Your Honor, we are. We have --

5                    THE COURT: That's all I needed to know. From  
6       Mr. Householder's perspective, you agree and this is in part  
7       at your request?

8                    MR. BRADLEY: Yes, Judge.

9                    THE COURT: Same for Mr. Borges?

10                  MR. SCHNEIDER: Yes.

11                  THE COURT: All right. What do you want me to tell  
12       the jury, we're done for the day and leave it at that?

13                  MR. BRADLEY: Yes.

14                  MR. SINGER: That works for the government.

15                  THE COURT: Very well. Have you guys talked about  
16       what we're doing tomorrow or you will do so timely in terms  
17       of who you're going to call?

18                  MR. SINGER: We're going to call Pat Tully and Jeff  
19       Longstreth tomorrow and believe those two witnesses will be  
20       the entirety of the day.

21                  MR. LONG: Also Kevin Koehler?

22                  MR. SINGER: Kevin will not be among them.

23                  THE COURT: We've got it cleared up. Is there  
24       anything else before we end our relationship for the day?  
25       Thank you.

1                   **SIDE BAR CONCLUDED.**

2                   THE COURT: Members of the Jury, you need to trust  
3                   me. We're going to break for the day. You're going to get  
4                   to go home early. We are on schedule and making progress.  
5                   I want you to enjoy the unexpected afternoon hours, put this  
6                   out of your mind. Take a break. Do not discuss it among  
7                   yourselves or with anyone else. No independent research.  
8                   No checking out the media. You need to continue to keep an  
9                   open mind. We're grateful to you for your continuing work,  
10                  and we will rise as you leave for the day. See you at 9:15  
11                  at your spot and we will try to get you in the courtroom at  
12                  9:30.

13                  THE DEPUTY: All rise for the jury.

14                  (Jury exited the courtroom at 2:04 p.m.)

15                  THE COURT: Jury has left the room. As always, as  
16                  soon as we're advised they've cleared the floor, you're  
17                  welcome to leave the courtroom. We'll recess for the day  
18                  and recommence tomorrow at 9:30.

19                  THE DEPUTY: All clear, Judge.

20                  THE COURT: Very well. We're in recess until  
21                  tomorrow.

22                  THE DEPUTY: This court is in recess.

23                  (Proceedings continued in progress at 2:05 p.m.)

24

25

## C E R T I F I C A T E

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter prepared from my stenotype notes.

/s/ Lisa Conley Yungblut

LISA CONLEY YUNGBLUT, RMR, CRR, CRC

02/24/2023

DATE

## I N D E X

## **EXAMINATIONS**

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## **EXHIBITS**

## **GOVERNMENT'S EXHIBITS**

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